

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
AGENDA  
ROSE ROOM  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
JULY 9, 2013**

**I. ROLL CALL**

**II. APPROVAL OF MINUTES FROM JUNE 11, 2013**

**III. STAFF COMMENTS AND PROCEDURES**

1. Final Plat/Restrictive Covenants – Park Meadows – Lots 1-35. Requested by Pat Mickle, agent for ERC Land Development Group, LLC.
2. Rezoning #7-6-13; A request by Pat Mickle, agent for RA Young Properties Limited Partners, for a zone change from Residential Estate One Acre (RE-1) to Residential Single Family Medium Density (RS-2) by Classification located at 4101-4299 Cliff Drive. (tabled from June 2013)
3. Rezoning #9-7-13; A request by Larry Hall, agent for Lawrence E. Sharum, Sr. Living Trust and Mildred A. Sharum Living Trust for a zone change from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by classification located at 8201 Phoenix Avenue. (companion item to item #4)
4. Development Plan Approval for a bank located at 8201 Phoenix Avenue. Requested by Larry Hall, agent for Lawrence E. Sharum, Sr. Living Trust and Mildred A. Sharum Living Trust. (companion item to item #3)
5. Development Plan Approval for a building addition to Umarex located at 7700 Chad Colley Boulevard. Requested by Travis Brisendine, agent for John Miller. (companion item to item #17)
6. Development Plan Approval for a canopy located at 1701 South Greenwood. Requested by Lorrie Runion, agent for Tim Hearn.

623 Garrison Avenue  
P.O. Box 1908  
FORT SMITH, ARKANSAS 72902  
(479) 784-2216  
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7. Conditional Use #16-7-13; A request by Tim Risley, agent for Fort Smith Public School District, for a conditional use for a school addition to Northside High School located at 2301 North "B" Street.
8. Conditional Use #17-7-13; A request by Ronnie Hart, agent for NF Holdings, Inc. and Minish Limited Partners, for a restaurant with drive-thru located at 2917 South 74<sup>th</sup> Street. (companion item to item #14)
9. Conditional Use #18-7-13; A request by Josh Niles, agent for Charles Farnan, for a conditional use for an auto and vehicle impoundment or holding yard located at 1302 South Zero Street.
10. Conditional Use #20-7-13; A request by Al Prieur, agent for John Hagen, for a conditional use for a church located at 3702 Century Drive.
11. Conditional Use #21-7-13; A request by Craig Roberts, agent for KMW Properties, for a conditional use for an outdoor advertising sign (billboard) located at 4801 South Phoenix Avenue. (4896 I-540) (companion item to item #18)
12. Conditional Use #22-7-13; A request by Charles Liggett, agent for Paul Henson, for a conditional use for parking lot (off-site) located at 3214 Old Greenwood Road.
13. Home Occupation #6-7-13; A request by Bobby Williams/Javanna Releford for a home occupation for a digital music production business located at 2917 Old Greenwood Road-#7.

**RECESS PLANNING COMMISSION  
CONVENE BOARD OF ZONING ADJUSTMENT**

14. Variance #18-7-13; A request by Ronnie Hart, agent for NF Holdings, Inc. for a variance from 12 feet to 10 feet driveway width and from required passing lane for restaurant drive-thru window located at 2917 South 74<sup>th</sup> Street. (companion item to item #8)
15. Variance #19-7-13; A request by Juan Martinez for a variance from 120 to 240 maximum number of days for a seasonal permit located at 3403 South 74<sup>th</sup> Street.
16. Variance #20-7-13; A request by Travis Brisendine, agent for Arvest Bank from 15 feet to 10 feet street side yard setback located at 5000 Rogers Avenue.
17. Variance #21-7-13; A request by Travis Brisendine, agent for John Miller, for a variance from Section 27-602-4(E) (4) & Section 27-602-4(E)(5) Industrial Building Standards located at 7700 Chad Colley Boulevard. (companion item to item #5)
18. Variance #22-7-13; A request by Craig Roberts, agent for KMW Properties, for a variance from Section 27-704-4(D) minimum distance from residentially zoned or developed property located at 4801 South Phoenix Avenue. (4896 I-540)(companion item to item #11)

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT**  
**MINUTES**  
**ROSE ROOM**  
**CREEKMORE PARK COMMUNITY CENTER**  
**5:30 P.M.**  
**JUNE 11, 2013**

On roll call, the following Commissioners were present: Vicki Newton, Brandon Cox, Marshall Sharpe, Jennifer Parks, Richard Spearman, Don Keese and Bob Cooper, Jr. Commissioner Rett Howard was absent. Commissioner John Huffman resigned his position on the Planning Commission.

Motion was made by Commissioner Parks, seconded by Commissioner Spearman and carried unanimously to approve the minutes of the May 14, 2013, meeting as written.

Mr. Wally Bailey spoke on the procedures.

Commissioner Sharpe advised the Commission and audience that item #1 on the agenda would be moved to the last item.

2. **Preliminary Plat/Preliminary Development Plan – Horseshoe Ridge – for a 24 lot single family residential development located at 4101-4299 Cliff Drive. Requested by Pat Mickle, agent for RA Young Properties Limited Partners. (companion item to item #3)**
  
3. **Rezoning #7-6-13; A request by Pat Mickle, agent, for RA Young Properties Limited Partners, for a zone change from Residential Estate Three Acres (RE-3) and Residential Estate One Acre (RE-1) to Residential Single Family Medium Density (RS-2) by Classification located at 4101-4299 Cliff Drive. (companion item to item #2)**

Mr. Wally Bailey read the staff reports indicating that the purpose of these requests is to facilitate a 24-lot single family development with the proposed lots averaging approximately 20,000 square feet in size with lot widths ranging from approximately 75 feet to 125 feet in width. Mr. Bailey stated that due to an error in publication of the rezoning request wherein the existing zoning classification was not published correctly, staff and the applicant feels it would be best to table this item until the July 9, 2013, Planning Commission meeting. Mr. Bailey also noted that a correction to sidewalk and landscaping requirements had been made to the rezoning staff report. The corrected staff report relative to sidewalk and landscaping requirements now reads as follows:

**Sidewalks** – Five-foot wide sidewalks are proposed along the perimeter of the subdivision adjacent to Cliff Drive and the existing frontage of Leigh Avenue and on one side of the subdivision's interior streets.

**Landscaping** – A ten-foot wide landscape strip is proposed along the entire perimeter of the subdivision adjacent to Cliff Drive and the existing frontage of Leigh Avenue. The area will be landscaped with one tree and ten shrubs for every 50 feet of linear feet of right of way frontage. Landscaping is also proposed for the subdivision entry at Cliff Drive.

Mr. Bailey stated that a neighborhood meeting was held on May 28, 2013, at Creekmore Park at 3301 South “M” Street with three (3) surrounding property owners in attendance. Mr. Bailey stated that there were no objections to the proposed subdivision.

Mr. Pat Mickle was present to speak on behalf of these requests.

No one was present to speak in opposition to the requests.

Chairman Sharpe then called for the vote on these items.

**2. Preliminary Plat/Preliminary Development Plan – Horseshoe Ridge – for a 24 lot single family residential development located at 4101-4299 Cliff Drive. Requested by Pat Mickle, agent for RA Young Properties Limited Partners. (companion item to item #3)**

Chairman Sharpe called for the vote on the preliminary plat/preliminary development plan. Motion was made by Commissioner Parks, seconded by Commissioner Newton and carried unanimously to amend this request to make approval subject to the following:

- Approval of the companion item for rezoning to RS-2 at the Planning Commission’s July regular meeting.
- The developer must agree to meet all franchise and city utility easement requirements.
- The preliminary plat and final plat must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction.

Chairman Sharpe then called for the vote on the preliminary plat/preliminary development plan as amended. The vote was 7 in favor and 0 opposed.

**3. Rezoning #7-6-13; A request by Pat Mickle, agent for RA Young Properties Limited Partners, for a zone change from Residential Estate Three Acres (RE-3) and Residential Estate One Acre (RE-1) to Residential Single Family Medium Density (RS-2) by Classification located at 4101-4299 Cliff Drive. (companion item to item #2)**

Chairman Sharpe called for the vote to table the rezoning request. The vote was 7 in favor and 0 opposed to table the rezoning request until the July 9, 2013, Planning Commission meeting.

**4. Conditional Use #14-5-13; A request by Anthony Leraris, agent for Dwight Curry and Lynn Curry, for a conditional use for an event center located at 7607 Rogers Avenue.**

Ms. Maggie Rice read the staff report indicating that the purpose of the conditional use request is to allow for the operation of an approximately 7,500 square foot event center in an existing space to host large events. Ms. Rice noted that modifications to the interior and exterior are proposed to accommodate the new use. Ms. Rice also noted that a neighborhood meeting was held on Monday, June 3, 2013, onsite with no surrounding property owners in attendance. Mr. Tony Leraris was present to speak on behalf of this request.

No one was present to speak in opposition to the request.

Chairman Sharpe then called for the vote on the conditional use request. The vote was 7 in favor and 0 opposed.

**1. UDO Amendments**

Mr. Bailey stated that these amendments are being requested in order to provide clarification on the location of district boundaries relative to streets, alleys and railroads and the proposed language will simply clarify where the boundary lines are measured.

No one was present to speak either in favor or in opposition to these proposed UDO Amendments.

Chairman Sharpe then called for the vote on the UDO Amendments. The vote was 7 in favor and 0 opposed.

**Meeting Adjourned!**

**SUBDIVISION COMMENTS**

**July 2013**

**1. Park Meadows, Lots 1-35 – Phase I Final Plat**

**Zoning Designation:** Residential Single Family Medium/High Density (RS-3)

**Land Use:** Provides for medium/high density, compact single-family homes as either new or infill development

**Proposed Use:** Single-family dwellings

We recommend approval of the final plat and the subdivision's Declaration of Covenants, Conditions and Restrictions. After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the county recorder.



**BYLAWS FOR PARK MEADOW  
PROPERTY OWNER'S ASSOCIATION**

**(An Arkansas Non- Profit Corporation)**

**ARTICLE I**

**REGISTERED OFFICE**

- 1.1 Park Meadow Property Owner's Association, an Arkansas Non-Profit Corporation (the "**Association**"), shall have at all times within the State of Arkansas a registered office and a registered agent. The Association may have other offices within the State of Arkansas as may be determined from time to time by its Board of Directors (the "**Board**").

**ARTICLE II**

**ADOPTION OF DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS AS PART OF THE BYLAWS**

- 2.1 **ADOPTION BY REFERENCE.** The Declaration of Covenants, Conditions, and Restrictions for Park Meadow Addition to the City of Fort Smith, Arkansas as reflected upon a plat of said subdivision filed on \_\_\_\_\_, 2013 of the Plat Records of Sebastian County, Arkansas, in the office of the Circuit Clerk and Ex-Officio Recorder of Sebastian County, Arkansas, and any amendments thereto hereafter made, if any, are hereby adopted and incorporated as part of these Bylaws by reference as though the same were set out herein word for word.
- 2.2 **DECLARATION TO CONTROL.** In the event any provision contained in these Bylaws, or any rule or regulation of the Association, or any other acts of the Association shall be in conflict with the Declaration, then the Declaration shall control.
- 2.3 **COVENANTS TO RUN WITH LAND:** These covenants and restrictions shall be binding on all parties, their heirs and assigns, for a period of forty (40) years from the date hereof, after which time they shall be automatically extended for successive periods of five (5) years each; provided, however, that these covenants and restrictions may be amended at any time by an instrument signed by not less than seventy-five percent (75%) of the Owners of Lots in the Subdivision. Such amendments shall be made in writing in recordable form and shall be recorded with the Registrar of Deeds in Sebastian County, Arkansas.

Notwithstanding anything above to the contrary, after the expiration of the initial forty (40) year period as set forth above, or any successive (five) 5 year period, at any time within six (6) months after the expiration of such period, a majority of the Lots, through their record Owners, may express their intention, in writing, so

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drafted and executed as to be recorded with the Registrar of Deeds in Sebastian County, Arkansas, that they no longer care for the covenants, and the same shall then be terminated. Otherwise, if no action is taken within such prescribed time, this Declaration shall continue for such additional five (5) year periods.

- 2.4 **VIOLATION OF COVENANTS:** If the parties herein or any of them or their heirs or assigns or any other person shall violate or attempt to violate any of the covenants or restrictions herein while said covenants or restrictions are still in force, it shall be lawful for any person or persons owning any interest in any said Lot or Lots in the Subdivision or the POA, to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, to prevent him or her or them from so doing or to recover damages or other remedies for such violation.

### ARTICLE III

#### DEFINITIONS

- 3.1 The following words, when used in these Bylaws shall have the following meaning:
- a. **“Bylaws”** shall mean and refer to this document and all declarations and Bylaws contained herein.
  - b. **“Common Properties”** shall mean all real property, personal property and any improvements thereon, such as swimming pools, clubhouses, medians, signs, entry ways, walking trails, bridges, lakes, ponds and the like, owned, leased or hereafter acquired by the Association. Common Properties are for the exclusive common use and enjoyment of the Members.
  - c. **“Declaration”** shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions for Park Meadow Addition to the City of Fort Smith, Arkansas as reflected upon a plat filed on \_\_\_\_\_, 2013 of the Plat Records of Sebastian County, Arkansas, in the office of the Circuit Clerk and Ex-Officio Recorder of Sebastian County, Arkansas and any amendments thereto or hereafter made.
  - d. **“Developer”** shall mean and refer to ERC Land Development Group, LLC.

- e.           “**Lot**” means any numbered Lot designated on the Plat of the Subdivision, except as may be herein below expected.
- f.           “**Member**” shall mean and refer to all those persons or entities who are members of the Association as provided herein.
- g.           “**Owner**” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot subject to these Bylaws, except that such term shall not mean Developer regardless of whether Developer has a fee simple interest in any Lot, but excluding those having such interest merely as security for the performance of an obligation.
- h.           “**Plat**” means the map of the plat of the Park Meadow Addition to the City of Fort Smith, Arkansas.
- i.           “**Properties**” shall mean and refer to all Lots in the Subdivision to the City of Fort Smith, Arkansas.
- j.           “**Subdivision**” shall mean and refer to the Park Meadow Addition to the City of Fort Smith, Arkansas, as per plat on file in the office of the Circuit Clerk, and Ex-Officio Recorder of Sebastian County, Arkansas.
- k.           “**The Association**” shall mean and refer to as the Park Meadow Property Owner’s Association, an Arkansas non-profit corporation.
- l.           “**ARC**” shall mean and refer to as the Architectural Review Committee for Park Meadow Addition.

**ARTICLE IV**

**PROPERTY SUBJECT TO THESE BY-LAWS**

- 4.1   The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to these Bylaws, is located and situated in Sebastian County, Arkansas, and which Subdivision is located on the real property more particularly described in **Exhibit “A”** attached hereto.

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**ARTICLE V**

**MEMBERSHIP AND VOTING RIGHTS OF THE ASSOCIATION**

- 5.1 **MEMBERSHIP:** Every person or entity, including the Developer, their heirs, successors and assigns, who is a record Owner of a fee, or undivided fee, interest in any Lot which is located in the Subdivision, shall be a Member of the Association. Any person or entity who holds such an interest merely as security for the performance of an obligation shall not be a Member.
- 5.2 **VOTING RIGHTS:** Voting members of the Association shall be entitled to vote in the election of Directors of the Association and for all other purposes. Said voting rights are more specifically set forth below.

Members shall be all those persons or entities as defined in Section 5.1. Except as otherwise provided herein, the record Owner (or record Owners as the case may be ) of any Lot shall be entitled to one vote for each Lot in which said Owner or Owners hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot except as hereinafter provided. A photocopy of the latest recorded deed for each Lot furnished by the Owner shall be conclusive evidence of the right of the record Owner or Owners shown thereon to cast the vote for such lot as a Member of the Association, and such recorded deed shall be filed with the Secretary of the Association prior to any vote. When any Lot is owned by more than one person or entity, the first name appearing in the granting clause of said deed shall be the person or entity entitled to cast the vote for the lot described thereon, unless an agreement signed in writing by all record Owners is filed with the Secretary designating another record Owner of said Lot to cast the vote for such Lot. Voting rights of any corporate entity shall be cast in accordance with a certificate of resolution setting forth such authority and signed by the Secretary of said corporation to be filed with the Secretary of the Association prior to any vote.

Notwithstanding the foregoing, the Developer shall have four (4) votes per Lot on all matters until the Developer has conveyed ninety-nine percent (99%) of the Lots in the Subdivision to other Owners, at which time the Developer shall have one (1) vote per Lot that it still owns and has not conveyed.

- 5.3 **MEMBERSHIP MEETINGS:** The Association members shall annually hold a regular meeting, one of the purposes of which shall be to elect directors. The first regular meeting of Members may be held, subject to the terms hereof, on any date, at the option of the Board, within one (1) year after the incorporation of the Association. Subsequent to the first meeting, there shall be a regular annual meeting of Members held each year within thirty (30) days of the anniversary of the first regular annual meeting. All such meetings of Members shall be held at such place in Barling, Arkansas and at such time as is specified in the written notice of such meeting. Such notice shall be mailed to or otherwise delivered to all Members at least fifteen (15) days and not more than forty-five (45) days prior to the date of such meeting. Such notice shall also state the purpose of such meeting.
- 5.4 **SPECIAL MEETINGS:** Special Meetings of the Members may be called by the President or by a majority of the directors, or by fifty-one percent (51%) of the Members. Special meetings shall be called by delivering written notice to all Members not less than seven (7) days nor more than thirty (30) days prior to the date of said meeting, stating the date time, place, and purposes of the special meeting.
- 5.5 **WAIVER OF NOTICE:** Waiver of notice of any meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, whether before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such Member of notice of the time, date, and place thereof unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to vote.
- 5.6 **QUORUM:** A quorum of Members for any meetings shall be deemed present throughout such meeting if Members represented in person or by proxy and holding more than one-half of the votes entitled to be cast at such meeting are present at the beginning at such meeting.
- 5.7 **ADJOURNMENT:** Any meeting of the Members may be adjourned from time to time for periods not exceeding forty-eight (48) hours by vote of the Members holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at

the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

- 5.8 **CONSENTS:** Any action which may be taken by a vote of the Members may also be taken by written consent signed by all Members.
- 5.9 **MEETING RULES:** The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Members.

## ARTICLE VI

### DIRECTORS AND OFFICERS

- 6.1 **INITIAL BOARD OF DIRECTORS:** The initial Board of Directors shall be composed of Rod Coleman, Rob Coleman and Nicole Swanson who shall serve until seventy-five percent (75%) of the Lots have been sold or at a point in time that is deemed necessary by the Board to turn over the POA to the Members.
- 6.2 **ELECTION OF DIRECTORS:** Upon the end of the term of the initial Directors or their resignation as set forth above in paragraph 6.1, the membership shall elect the Board of Directors, which, unless a special meeting is held to have the first election, shall be held at the annual meeting of the membership.
- 6.3 **NUMBER AND TENURE OF DIRECTORS:** The number of Directors to be elected, after the initial Directors, shall be five (5) and their terms shall be as follows: The three individuals receiving the highest number of votes for Directors shall serve a two (2) year term. The two (2) elected Directors receiving the lowest vote total shall serve for a one (1) year term. Thereafter, the Directors' seats that will be vacated will be voted upon at the Members' annual meeting to serve a two (2) year term as set out hereinabove. Directors and officers shall serve with no compensation.
- 6.4 **DUTIES:** The business and property of the Association shall be managed by the Board of Directors.
- 6.5 **CUMULATIVE VOTING:** Members shall be entitled to cumulative voting for Directors.

- 6.6 **ELECTION OF OFFICERS:** The Directors shall elect a President, Vice-President, Secretary, and Treasurer to serve one (1) year terms until the next election.
- 6.7 **DUTIES OF PRESIDENT:** The President of the Associations shall be its chief executive officer and have the responsibility for the supervision of the management of the affairs of the Association. The President shall preside over meetings of the Board of Directors.
- 6.8 **DUTIES OF VICE PRESIDENT:** The Vice-President shall perform the duties and exercise the powers of the President during absence or disability of the President. In the event of the death, resignation, or removal of the President, the Vice-President shall serve as President until a new president has been elected.
- 6.9 **DUTIES OF SECRETARY:** The Secretary of the Association shall keep the minutes of the meetings of the Board of Directors and the Membership and shall keep and make all other records and reports, except for accounting purposes, necessary and proper to the operation of the Association.
- 6.10 **DUTIES OF TREASURER:** The Treasurer of the Association shall keep the books of account of the Association, maintain deposit accounts for the funds of the Association which shall be subject to withdrawal upon the signatures of the President and Treasurer and whose signatures shall be duly certified to the depositories of the Association, and be responsible for the proper reporting to any governmental agency and the membership of the Association for funds received and paid out, including the responsibility to submit a financial report to the Board of Directors at each regular Director's meeting and to the membership at the annual meeting of the membership.
- 6.11 **ASSOCIATION COMMITTEES:**
- a. **OPTIONAL COMMITTEES:** The Board of Directors may, from time to time, establish such committees as the Board of Directors deems necessary and desirable to assist in the efficient operation of the Association. Committee members shall be Members of the Association and shall be appointed by the Board of Directors and shall serve at the pleasure of the Board of Directors.
- b. **PARK MEADOW ADDITION ARCHITECTURAL REVIEW COMMITTEE:** The Members of the Developer shall serve as the ARC

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until their resignation. Thereafter, the Board of Directors shall create the ARC and shall appoint at least two (2) and not more than four (4) Members of the Association thereon and shall appoint one of the committee members to serve as chairman.

- 6.12 **DIRECTOR'S MEETINGS:** Regular meetings of the Board of Directors shall be held, at least annually at the office of the Association or at such other places as the President may designate. Special meetings may be called at any time by the President, and may be called by any officer of the Association upon written demand of two (2) or more Directors. A quorum shall be deemed to exist at any regular or special meeting of the Directors if two or more directors are present.
- 6.13 **MEETING RULES:** The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Members.
- 6.14 **EXECUTION OF DOCUMENTS:** When the execution of any contract, conveyance or any instrument has been authorized by the Board of Directors without specification as to the representative of the Association to execute said instrument or instruments, the President and the Secretary may execute the same in the name and in behalf of the Association and may affix the corporate seal thereto. The Board shall have the power to designate the officers and agents who shall have the authority to execute any instrument on behalf of the Association.
- 6.15 **REMOVAL OF DIRECTORS AND NEWLY CREATED DIRECTORSHIPS AND VACANCIES:** Any and all of the Directors may be removed for cause by a majority vote of the Members or by action of the Board. Directors may be removed without cause only by a majority vote of the Members. Newly created directorships resulting from the resignation or death of a Director may be filled by a vote of a majority of the Directors then in office. Vacancies occurring by reason of the removal of Directors with or without cause shall be filled by a majority vote of the Members. A Director elected to fill a vacancy caused by resignation, death or removal shall be elected to hold office for the unexpired term of his or her predecessor.
- 6.16 **NO LIABILITY:** Neither Developer nor its assigns, the Association, the Board of Directors, nor the ARC or the Members thereof shall be liable in damages to anyone submitting plans and specifications to them for approval, or to any Owner of a Lot affected by these restrictions by reason of mistaken judgment, negligence, or disapproval or failure to approve or disapprove any such plans or specifications and no approval or required modification of plans submitted shall

be considered a warranty of any nature whatsoever pertaining to the suitability of such plans and specifications. Every person who submits plans and specifications to the ARC for approval agrees that no action or suit for damages will be brought against the Developer, the Association, its Board of Directors, the ARC, or any of the Members thereof.

## ARTICLE VII

### ARCHITECTURAL APPROVAL

- 7.1 **ARCHITECTURAL REVIEW COMMITTEE:** The ARC shall be composed of three (3) individuals who need not be Members of the Association. Declarant shall have the right to appoint all three (3) members of the ARC until the earlier of: (a) the date the last lot is owned by Declarant is sold (except in connection with a conveyance to a successor to Declarant); or (b) such date as the Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board shall have the right to appoint the individuals to serve on the ARC. Members of the ARC may be removed at any time and shall serve until resignation or removal by, as applicable, Declarant or Board.
- 7.2 **PLAN APPROVAL:** The overall plan for the Subdivision contemplates centralization of architectural control to enhance, ensure, and protect the attractiveness, beauty, and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual dwellings. For this purpose, the Park Meadow ARC shall have the right and responsibility to review and approve plans and specifications for all new construction and any remodeling, rehabilitation or renovation work to the exterior of any dwelling or improvement to any Lot with in the Subdivision.

No building, fence, wall, residence or other structure shall be commenced, erected, or maintained upon the property nor shall any exterior addition to or change or alteration to such structures or the color thereof (including without limitation, side landscaping visible from any part of the Property and grading plans, reroofing materials, patio covers and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications of such improvements are submitted to and approved in writing by the Park Meadow ARC. Provided however, in the event the Park Meadow ARC fails to approve or disapprove such design or locations within forty-five (45) days after plans and specifications shall be submitted in writing. Plans must be legible and must be to

scale as it relates to the Lot boundaries and must include all related improvements already constructed on the Lot.

7.3 **APPROVAL OF IMPROVEMENTS REQUIRED:** No improvement of any nature shall be commenced, constructed, renovated, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or be maintained on any portion of the Subdivision, including, without implied limitation, any Lot or Residential Dwelling by any Owner, other than Declarant, which affect the appearance of any Lot or the exterior of any Residential Dwelling or other structure on a Lot unless Plans therefor have been submitted to and approved by the ARC in accordance with this Article. Without limiting the foregoing, the construction and installation of any Residential Dwellings, driveways, mailboxes, decks, patios, courtyards, landscaping, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servant's quarters or any other structures, shall not be undertaken, nor shall any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to any Residential Dwelling or structure, until the following items have been submitted to and approved by the ARC:

- a. One complete copy of all plans and related data submitted to the ARC shall be retained by the ARC and the other copy shall be returned to the Owner within thirty (30) days of submission marked "approved," "approved as noted" or "disapproved." Any revisions, modifications or changes in any Plans previously approved by the ARC must be resubmitted to and approved by the ARC. If construction of the Residential Dwelling or other structure has not commenced (e.g. by clearing and grading, pouring of footing and otherwise commencing framing and other related construction work) within one hundred twenty (120) days of approval by the ARC, then the Plans and related documentation must be resubmitted to and approved by the ARC.

7.4 **ADDRESS OF COMMITTEE:** The address of the ARC shall be at the principal office of the Association or such other address as may be designated from time to time by the ARC. The initial address of the ARC is: 813 Fort Street, Barling, Arkansas 72923.

7.5 **ARCHITECTURAL GUIDELINES:** The ARC from time to time may promulgate, supplement or amend the Architectural Guidelines, which provide the minimum acceptable standards for proposed improvements; provided, however, the ARC may impose additional requirements in connection with its review of the information and data submitted in connection with any proposed improvements. If the Architectural Guidelines impose requirements more stringent than the requirements imposed by this Declaration, the provisions of the Architectural Guidelines shall control.

- 7.6 **FAILURE OF ARCHITECTURAL REVIEW COMMITTEE TO ACT ON PLANS:** Any request for approval of the proposed improvement on a Lot shall be deemed approved by the ARC unless disapproval or a request for additional information or materials is transmitted to the Owner by the ARC within thirty (30) days after receipt by the ARC of all required and, if applicable, requested materials; provided, however, that no such provision of the Declaration or the Architectural Guidelines, the ARC at all times retaining the right to object to any improvement on a Lot that violates any provision of the Declaration or the Architectural Guidelines.
- 7.7 **PROSECUTION OF WORK AFTER APPROVAL:** After approval of any proposed improvement on a Lot, the proposed improvement shall be completed assiduously within the time frame approved by the ARC and in strict conformance with the Plans and related data submitted to and approved by the ARC. During the construction or renovation of an approved improvement, the following guidelines will be complied with: (a) No building materials shall be placed on a Lot sooner than thirty (30) days prior to the commencement of construction; (b) the job site and all surrounding areas shall be kept as orderly as possible during construction and will require adequate trash receptacles; (c) all construction debris, trash and rubbish shall be properly disposed of at least weekly; (d) in no event shall anything be buried on any Lot or beneath the Residential Dwelling; (e) no dirt, mud, gravel or other substance shall collect or remain on any Street; (f) all construction vehicles must be parked on the Lot or in areas designated by the ARC; (g) construction is permitted between the hours of 7:00 o'clock a.m. and 8 o'clock p.m., Monday through Saturday; and (h) the improvement shall not be deemed completed until the exterior fascia and trim on the improvement have been completed and all construction materials and debris have been removed from the Lot within thirty (30) days of construction completion and all rooms in the Residential Dwelling, other than any attics, have been completed.
- 7.8 **NOTICE OF COMPLETION:** Within five (5) days of completion of the improvement, the Owner or, as applicable, the Builder shall deliver a notice of completion reflecting the date on which construction was completed to the ARC.
- 7.9 **INSPECTION OF WORK:** The ARC or its duly authorized representative shall have the right during the hours in which construction is permitted to inspect any construction either during or on completion of the construction.
- 7.10 **NOTICE OF NONCOMPLIANCE:** If, as a result of inspections or otherwise, the ARC determines that any improvement has been constructed or undertaken without prior approval of the ARC or have been completed other than in strict conformance with the approved Plans and related data or has not been completed within the time frame approved by the ARC, the ARC shall within sixty (60) days after receipt of the notice of completion notify the Owner in writing of the noncompliance. The notice of noncompliance shall specify the particulars of the

noncompliance and shall require that such noncompliance be corrected within thirty (30) days of issuance of the notice of noncompliance. If such noncompliance is not corrected within the thirty (30) day period, the Board, at the Board's option may: (a) record a notice of noncompliance against the Lot in the real property records of Sebastian County, Arkansas; (b) remove the noncomplying improvement; and/or (c) otherwise remedy the noncompliance (including, without implied limitation, completion of construction). Any costs incurred by the Association in correcting the noncompliance, including, but not limited to, filing fees, shall be reimbursed by the Owner or, as applicable, the Builder to the Association with ten (10) days of receipt of an invoice therefore. If reimbursement of the invoiced amount is not received by the Association within such ten (10) day period, such amount shall be added to the Owner's Annual Maintenance Charge and collected in the manner provided.

- 7.11 **NO IMPLIED WAIVER OR ESTOPPEL:** No action of failure to act by the ARC of the Board of Directors shall constitute a waiver or estoppels with respect to future action by the ARC or the Board of Directors with respect to any improvement on a Lot. Specifically, the approval by the ARC of any improvement on a Lot shall not be deemed a waiver of any right or any estoppels against withholding approval of a similar improvement or proposal on another Lot, Plans or other materials submitted with respect to any other improvement affecting the Lot.
- 7.12 **COMPENSATION OF ARCHITECTURAL REVIEW COMMITTEE:** The members of the ARC shall be entitled to reimbursement for reasonable expenses.
- 7.13 **ESTOPPEL CERTIFICATES:** Except with respect to improvements originally constructed by Declarant, the Board of Directors, on the reasonable request of any interested party and after confirming any necessary facts with the ARC, shall furnish a certificate with respect to the approval or disapproval of any improvement on a Lot or with respect to whether any improvement on a Lot was completed in compliance with this Declaration.
- 7.14 **POWER TO GRANT VARIANCES:** Except for the provisions relating to single family residential use, the ARC may grant variances from compliance with any of the provisions of this Declaration. Each variance granted by the ARC must be in writing and shall become effective when signed by a majority of the members of the ARC. The granting of a variance by the ARC shall not affect the Owner's obligation to comply with all governmental laws and regulations affecting the Lot.
- 7.15 **NONLIABILITY FOR ARCHITECTURAL REVIEW COMMITTEE ACTION:** Neither the ARC, the Association, the Board of Directors, the Declarant, nor any of their respective officers, agents, members or employees shall be liable for any loss, damage or injury arising out of or in any way connected with the performance of duties of the ARC, except to the extent caused

by the willful misconduct or bad faith of the party to be held liable. During the approval process of any proposed improvement, including the design, construction, safety, whether structural or otherwise, conformance with building codes or other governmental laws or regulations or whether the proposed improvement is suitable for its intended purpose. Furthermore, none of the members of the ARC, any member of the Board of Directors or the Declarant shall be personally liable for debts incurred by the Association or for any actions of omissions of the Association.

- 7.16 **CONSTRUCTION PERIOD EXCEPTION:** If construction of an approved improvement is anticipated to exceed the time allowed for such construction, on written request the ARC will consider and, on approval, may postpone the construction completion requirements imposed by this Declaration by granting thirty (30) day extension for completion of such approved construction.
- 7.17 **SUBSURFACE CONDITIONS:** The approval of Plans by the ARC for any Residential Dwelling or other improvement shall not be construed as a representation or warranty by the ARC or Declarant that the surface of subsurface of such Lot area suitable for the proposed improvements. It shall be the sole responsibility of such Owner or Builder to determine the suitability and adequacy of the surface and subsurface prior to the commencement of any proposed improvements thereon.

#### **RESTRICTIONS AND RESIDENTIAL LOTS**

- 7.18 **RESTRICTION OF USE AND TYPE OF DWELLING:** All restrictions outlined in 7.18 thru 7.48 are mandatory in Park Meadow Addition. Failure to comply will result in a fine of Fifty and No/100 Dollars (\$50.00) per day and/or billing for reimbursement to the Association for all expenses incurred if the Association must correct the violation. The action of a fine or reimbursement billing will be at the sole discretion of the ARC and/or Board of Directors. The Lots in Park Meadow Addition shall be used exclusively for single family attached or detached residential purposes. No trade or business shall be carried on upon any Lot on said subdivision. Except as noted above, there shall be no dwellings erected on any Lots in this Subdivision other than a single-family attached or detached dwelling, having at least a two (2) car attached garage. Each garage shall be fully enclosed and contain full length doors at the entrance way thereto. No garage shall be used by anyone other than the Owner of the Lot on which the garage is situated or his family or a bona fide guest. Each resident shall have a concrete driveway connecting the garage to the street, and each driveway shall be of adequate width to accommodate two automobiles when parked side by side, but in any event not less than sixteen (16) feet in width.
- 7.19 **MINIMUM SQUARE FOOTAGE AND EXTERIOR:** There shall be a minimum square footage requirement on all dwellings constructed in said subdivision. The living area of said dwellings shall be a minimum of fourteen

hundred (1,400) square feet of heated and cooled area. These minimum square footage requirements are exclusive of garages, porches, patios, and decks. The Developer may decide to amend the square footage and may do so as long as the developer owns ten percent (10%) or more of the plated lots. Approval required by ARC for all exterior materials. All fascia boards will be two (2) inch by four (4) inch construction or greater. All exposed foundations must be covered with masonry veneer. In addition, all buildings on each of the Lots must be constructed in accordance with all applicable codes, rules and regulations of the City applicable to building materials.

- 7.20 **EXTERIOR COLORS:** All exterior structure colors must be approved by the ARC and, in the event of repainting, such color, in addition to being approved by the ARC, must be consistent with the original exterior color, it being the express intent of Declarant to preserve the original color scheme for Residential Dwellings in the Subdivision.
- 7.21 **MAXIMUM ALLOWABLE HEIGHT OF BUILDING:** No Residential Dwelling shall exceed a reasonable height required for two and one-half (2½) stories of living space (above finished grade) plus a pitched roof. No Residential Dwelling shall have more than two and one-half (2½) stories of living space above finished grade except in a case where a third (3<sup>rd</sup>) story of living space is contained within the volume defined by the roof plans of the Residential Dwelling. Notwithstanding the foregoing, no Residential Dwelling shall exceed the height of fifty-five (55) feet above finished grade.
- 7.22 **ROOFS:** Each dwelling erected on any said Lot shall have a minimum roof pitch of 6/12. All roof overhangs will be a minimum of six (6) inches. All roofs shall have architectural shingles (20 year minimum) of weathered wood color. No roof color or style shall be changed from the original color without prior approval from the ARC.
- 7.23 **FENCES:** Any fence installed must duplicate the spaced picket entrance fence on the front sections that will face the road. All fencing must be painted white. All lots are required to have and maintain three (3) foot high, 1 ½ inch spaced picket fencing adjacent to the inside perimeter of all sidewalks. No fence on a corner Lot shall be constructed beyond the side setback line toward the street except for the community entry. Any privacy fence shall be constructed so that the framing shall be toward the inside of the Owner's Lot. Maintenance of fence needs to be done on regular basis so that the paint has a fresh appearance. Chain link fences, wire, hog wire, or similar materials are prohibited on any portion of the lot. All parts of fences which face the street shall be of new materials constructed of wood. Fencing on perimeter Lots shall not exceed six (6) feet in height. All walls or fences installed by the Developer located in the Subdivision shall remain intact and undisturbed and no person or entity shall be allowed to maintain any ingress or egress through said wall or walls. All Lots must also include any utilities that are within the boundaries of the Lot within the fence. No

Owner or Builder can exclude these from the Lot so as to not have them showing in their backyard. Any Owner or Builder that does not comply will be required at their expense to remedy the issue within ten (10) days of received notice by certified mail. In the event the notice is considered to be deemed ignored by the Owner, a fine of Fifty and No/100 Dollars (\$50.00) per day will be assessed until otherwise remedied.

- 7.24 **PARKING:** No inoperative vehicles of any nature shall be permitted to remain on any Lot or Lots for a period in excess of one day. It is the intention of the Developer that, except on special occasions such as a function at an Owner's residence, that all parking shall be in driveways and not on the street. Accordingly, no vehicle shall be parked on the street for more than two (2) consecutive days and shall not be parked overnight on the street. Automobiles, trucks, or obsolete vehicles or machines no longer in service shall not be repaired, overhauled, or otherwise worked on in the streets, driveways, or yards. No vehicle maintenance shall be performed on the streets or in the front yards or on parking pads of any Lot. No commercial vehicle, semi trailer trucks, delivery vans, or commercial utility vehicles can be parked on the street or in the driveway of a Lot at any time, except for the purpose of making a delivery or temporary repairs or maintenance for a Lot or dwelling in the Subdivision. All private drives and driveways on said Lot or lots connecting said Lot or Lots with the public street shall be concrete at least sixteen (16) feet in width and no vehicles (including boats, trailers, or recreational vehicles) shall be parked except upon an area paved in concrete for such purposes.
- 7.25 **RECREATIONAL VEHICLES AND BOATS:** Recreational and camping vehicles, trailers, and boats may be stored and parked on the Lots; however, these vehicles, trailers and boats shall be located behind the dwelling but only if screened by a privacy fence which is at least six (6) feet in height so that such vehicles, trailers, or boats will not be readily visible from any street or adjoining Lot. Provided, however, in the case of corner Lots, such vehicles, trailers and boats shall not be parked on the side yard next to the street adjacent to the side yard of the corner Lot. Any such fences must be constructed in accordance with these Covenants.
- 7.26 **ANIMALS:** No animals or livestock of any kind shall be raised, kept, or bred on any Lot in the Subdivision except that dogs, cats or other household pets may be kept; provided they are not kept, bred or maintained for any commercial purposes and provided that the same are not a nuisance to the neighborhood. No poultry or snakes of any kind shall be kept on any Lot in the Subdivision. All pets shall be maintained in accordance with the ordinances of the City of Fort Smith. All homeowners must keep all animals on a leash at all times and must pick up after their pets at all times. If a homeowner is shown to not respect others by following the Bylaws then the Board of Directors may have the right to force the Owner to remove the animal from Park Meadow.

- 7.27 **PLAY EQUIPMENT:** No playground, swing sets, trampolines, swimming pools, picnic tables, or similar equipment is allowed in the front yards of any Lot.
- 7.28 **TRASH:** No scrap material, rubbish, or debris shall be permitted to accumulate upon the premises. Trash receptacles may not be stored in the front of any dwelling unit and may not be seen from the street except for the twelve hours before and after the scheduled trash pick up. All homeowners in the Subdivision shall be required to have mandatory trash pickup as provided by the City, or private enterprises providing such services.
- 7.29 **MAILBOXES:** Mailboxes are to be built according to the design adopted by the ARC (see Exhibit 'B'). In addition, each residence must have its address clearly visible from the street either located on the mailbox where indicated or on a cast stone insert no larger than nine (9) by fifteen (15) inches. Mailboxes must be located within ten (10) feet of the driveway servicing the lot.
- 7.30 **SIGNS:** No signs of any kind shall be displayed to the public view on any Lot except for one professional sign of not more than one square foot advertising the property for sale, or signs used by the builder to advertise the properties in the Subdivision during the construction and sales period. All signs must comply with applicable city ordinances and no signs that advertise for rent or for lease may be allowed. All signs must be maintained and may not be of chloroplast material and be contained within a black metal frame. All other signs must receive approval from the ARC. During construction, one sign may be used to display the Builder of the Residential Dwelling, no signs advertising for subcontractors, banks or construction related entities are acceptable.
- 7.31 **NUISANCES, TRADE OR BUSINESS:** There shall be no trade or business conducted in, upon or from any single family Lot or from any building thereon, except that an Owner or occupant may conduct business activities within the residence so long as the following conditions are met: (a) The existence or the operation of the business activity is not apparent or detectible by sight, sound, or smell from the outside of the residence; (b) the business activity conforms to all zoning requirements for the property; (c) the business activity does not involve regular visitation of the residence by clients, customers, suppliers, or other business invitees or door to door solicitation of residence of the Subdivision; (d) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, hazard, offensive use, or threaten the security or safety of other residence of the Subdivision; and (e) the business activity done not require employees to come to or work at the residence, and (f) the business has been approved by the City of Fort Smith and the occupant has been awarded a home business permit. No noxious or offensive activities or nuisances shall be permitted on any Lot.

- 7.32 **YARD MAINTENANCE:** All Lots in the Subdivision shall be maintained in a neat and orderly manner so as not to detract from the surrounding neighborhood. All grass and weeds on any vacant Lot shall not exceed four (4) inches in height. All front, side and rear yards are to be sodded. Outside clotheslines or other outside facilities for airing clothes shall not be erected, placed, or maintained except within a fenced backyard or otherwise concealed and not visible from the public thoroughfares. In the event the Owner fails to comply with this, the ARC and the Board of Directors can elect to remedy the situation. If the proper maintenance is not completed within three (3) days of notice from the Board of Directors all expenses incurred, including, but not limited to, mowing, filing of lien and clean up are reimbursable to the Association.
- 7.33 **ANTENNAS AND SATELLITE DISHES:** Any satellite dishes shall be placed behind the dwelling in the rear yard inside and within the building setback lines of the side and rear yard behind a fenced area. Any satellite dishes in excess of eighteen (18) inches in diameter are prohibited in the Subdivision. All plans for satellite dishes must be approved in writing by the ARC. If the satellite provider installs equipment for satellite service in the wrong are the Owner must, at Owners expense move the dish to the rear of the home within seven (7) days of being notified by the ARC.
- 7.34 **TEMPORARY STRUCTURES AND OUTBUILDINGS:** No structure of a temporary or permanent character, trailer, mobile home, tent, shack, barn, porch or covering or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. All plans for outbuildings, porches and coverings must be approved in writing by the ARC or the Developer, and the ARC shall have the right to limit the number of outbuildings per Lot, including the right to allow no more than one outbuilding per particular Lot. Any such building, addition or structure must be constructed behind the rear building line of the house and inside the side building set back lines of the rear yard. All outbuildings, porch, or covering erected or placed on any Lot shall be maintained in good repair and in a neat and attractive condition. Barbecue grills or other types of outdoor cooking equipment and patio furniture shall be located with in the rear yard.
- 7.35 **NO LOT SPLIT:** No Lot shall be split, divided, or replatted without the express written approval of Developer, the City of Fort Smith and the ARC. At such time that the Developer has sold all the lots, Developers written approval will no longer be needed.
- 7.36 **MACHINERY AND EQUIPMENT:** No machinery or equipment or large trucks of any kind shall be placed, operated, or maintained upon or adjacent to any single family Lot except such machinery equipment as is usual and customary in connection with the maintenance or construction of a private residence or appurtenant structures; provided, however, such machinery or equipment may be so placed, operated, or maintained by any governmental or quasi-governmental

agency or a public utility. However, machinery and equipment for a home workshop may be placed, operated, and maintained inside a private residence, provided such activity is not visible from the public thoroughfare.

- 7.37 **UTILITIES:** All utilities, including telephone wiring, irrigation, and the like shall be placed below grade except that transformers or any other equipment, which is impractical to place below the grade, may be placed above the ground. All Lots must also include any utilities that are within the boundaries of the Lot within the fence. No Owner or Builder can exclude these from the Lot so as to not have them showing in their backyard. Any Owner or Builder that does not comply will be required at their expense to remedy the issue within ten (10) days of received notice by certified mail. In the event the notice is considered to be deemed ignored by the Owner, a fine of Fifty and No/100 Dollars (\$50.00) per day will be assessed until otherwise remedied.
- 7.38 **AIR CONDITIONING APPARATUS:** No air conditioning apparatus shall be installed on the ground in front of the residence. No air conditioning apparatus or evaporation cooler shall be installed on any front wall of the residence.
- 7.39 **WATER AND SEWER:** No individual water supply system or sewage disposal system shall be maintained on any single family Lot and dwellings must attach to such facilities provided by the water and sanitation district serving the area. Any use of geothermal, solar or other type of alternative energy sources will need the written consent of the ARC.
- 7.40 **MINERAL EXPLORATION DEVELOPMENT:** No operation for mining or exploration for or removal of any water, hydrocarbons, or other materials of any kind, gravel, or any other earth substance of any kind shall be conducted on any Lot.
- 7.41 **LANDSCAPING:** Landscaping plan must be submitted and approved by the ARC for all lots. All Lots shall be sodded on the front, rear and side yard portions and any and all Lots must be maintained at all times. All residences must have a minimum of one (1) trees (two inch caliper or larger) in the front yard and two (two) Crape Myrtle's to be located in front of the sidewalk and behind the curb, unless City standards indicate otherwise.
- 7.42 **SIDEWALKS:** All sidewalks must be constructed as noted on the final plat by the builder of the home.
- 7.43 **CARPORTS:** No carports are permitted within the Subdivision.
- 7.44 **STORAGE:** Without prior written consent of the ARC, no building materials of any kind or character shall be placed or stored on any Lot more than fourteen (14) days before the construction, renovation or repair of a Residential Dwelling, structure or other improvement is commenced. All materials permitted to be

placed on a Lot shall be placed within the property lines of the Lot. After the commencement of construction, such construction shall be prosecuted diligently to the end that they Residential Dwelling, structure or improvement shall not remain partially completed any longer than reasonably necessary as determined in the sole discretion of the ARC. In no event shall any structure or improvement remain in a partially completed condition longer than one (1) month from the commencement of such construction, renovation or repair. In the event that the construction can not be completed a suitable alternative must be presented or if the improvement can not be completed in the foreseeable future than the improvement must be torn down to its original state until the full project can be completed in a reasonable time. On the completion of construction, any unused materials shall be removed immediately from the Lot and any damage to the Lot, whether landscape or otherwise, shall be restored to the condition which existed prior to the construction of the improvement. Failure to comply will result in a fine of Fifty and No/100 Dollars (\$50.00) per day.

- 7.45 **AIR CONDITIONERS:** No window, roof or wall type of air conditioner shall be used, placed or maintained or in any Residential Dwelling, garage or other building.
- 7.46 **SEASONAL OR HOLIDAY DECORATIONS:** All decorations that other wise represent any seasonal or holiday must be removed no more than fifteen (15) days after such holiday. In such event the decorations become a distraction to the enjoyment of the neighborhood it is the sole discretion of the ARC as to allow such decorations to continue to be displayed. Included in this provision is also any statues or garden type decorations that are to be seen from the road.
- 7.47 **SWIMMING POOLS AND OTHER AMENITY STRUCTURES:** Subject to this Declaration and the ARC's written approval of Plans submitted therefore, swimming pools, outdoor hot tubs, reflecting ponds, saunas, whirlpools, lap pools and other amenity structures may be constructed, installed and maintained on any Lot. All approved amenity structures shall be located within the rear yard behind a fence so as to not be visible from the neighboring Lots.
- 7.48 **DRAINAGE:** Except as shown on the drainage plan for the Subdivision, no Owner or Builder shall be permitted to construct improvements on such Lot or to grade such Lot or permit such Lot to remain in or be place in such condition that surface water on such Lot drains to any other Lot. The Declarant or the Association may, be shall not be required to, install drainage inlets or underground drains within the utility easement on effected Lots. In no event shall the Owner obstruct or interfere with any portion of the drainage system. Upon the purchase of a Lot the Owner is fully responsible for any and all requirements set forth by the local/state agency on Storm water quality or the state agency DEQ.

## ARTICLE VIII

**PLAN FOR MAINTENANCE OF COMMON PROPERTIES  
AND/OR LANDSCAPING AND FENCE EASEMENTS**

- 8.1 **ISLANDS, WALLS AND OTHER IMPROVEMENTS:** It is contemplated that certain landscaping islands, pavilions, bridges, walking trails, walls, fences, signs and sign posts and landscaping and street lights in the Subdivision and other improvements may be erected on the Common Properties and/or in Landscaping & Fence Easements by the Developer. At such time as any Common Properties are conveyed or dedicated by the Developer to the Association, the cost, maintenance, capital improvements, operation, taxes, and other expenses incident to the Common Properties shall be the obligation of the Association and shall be paid from assessments against each Lot as herein provided. All Common Properties and/or Landscaping & Fence Easements designated by the Developer shall be maintained at the expense of the Association.

**ARTICLE IX**

**PROPERTY RIGHTS OF THE COMMON PROPERTIES**

- 9.1 **MEMBER'S EASMENT FOR ENJOYMENT:** Subject to the provision of this article and related provisions set forth elsewhere herein, every Member shall have a right of enjoyment in and to the Common Properties and the areas, subject to the rules and regulations governing such use as promulgated, from time to time, by the Association. Such right and easement shall be appurtenant to and shall pass with the conveyance of title to every Lot.
- 9.2 **EXTENTION OF MEMBER'S RIGHT OF ENJOYMENT:** The rights of easements of enjoyment created hereby shall be subject to the following:
- a. The right of the Association to borrow money for the purpose of acquiring, constructing, improving, and maintaining the Common Properties and in aid thereof to mortgage said properties or execute a deed of trust or other instrument covering said properties. In the event of default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge service or use charges, admission and other fees as a condition to continued enjoyment by the Members, and other fees as a condition to continued enjoyment by the Members, and if necessary to have other relief as permitted by law;
  - b. The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;
  - c. The right of the Association to suspend or permanently cancel the rights of any Member and membership in the Association as hereinafter provided;

- d. The right of the Association to charge reasonable service or use charges, admission and other fees for the use, service and enjoyment of the Common Properties;
- e. The right of the Association to limit the number of Members per lot who may be entitled to the benefit of the easement of enjoyment as to the Common Properties by reason of ownership of a Lot;
- f. The right of individual Members to have exclusive use of any of the Common Properties as from time to time may be generated by the Board or its designate; and
- g. The right of the Association to pass and enforce rules and regulations related to use, control, and maintenance of the Common Properties and the areas situated thereon.

## ARTICLE X

### COVENANT FOR MAINTENANCE AND OTHER ASSESSMENTS

- 11.0 **CREATION OF LIEN:** Each Owner of any Lot of the Subdivision, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed, contract of purchase, or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established and corrected from time to time as hereafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Property, and shall be a continuing lien upon the Lot against which each such assessment is made. In no event shall an annual or special assessment be applicable at any time to any Lot owned by the Developer and the Developer shall not be obligated to pay an annual or special assessment.
- 10.2 **PURPOSES OF ASSESSMENTS:** The assessments levied pursuant hereto by the Association shall be used for the purposes of acquisition, improvement and maintenance of the Common Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties, insurance thereon, and repair, replacement, and modifications thereto, and for the cost of labor, equipment, materials, management, and supervision thereof. In additions, assessments may also be used for expenses related to the necessary and reasonable operation of the Association, including, but not limited to, collection of assessments and related costs and enforcement of the covenants and restrictions of the Subdivision.
- 10.3 **BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS:** The initial annual assessment for each Lot shall be One Hundred and No/100 Dollars (\$100.00). An

Owner's first such assessment shall be prorated and paid to the Association at closing according to time of conveyance of a Lot from the Developer to the Owner. The annual assessment may be increased, as hereinafter provided, by a majority vote of the votes entitled to be cast by the Members for the next succeeding "assessment year" (beginning January 1) and at the end of each such period of one year for each succeeding period of one year. At no time shall the annual assessment per Lot be increased more than twenty-five percent (25%) above the prior year's annual assessment. Said annual assessment shall be paid in advance of the first (1<sup>st</sup>) day of January each year. The Board of Directors may, after consideration of current maintenance costs, Lease payments and future needs of the Association, fix the actual assessment for any year at a lesser amount. However, the amount and basis of the assessments shall not be reduced below the minimum level required for the Association to meet its obligations.

- 10.4 **SPECIAL ASSESSMENTS OF CAPITAL INVESTMENTS:** In addition to the annual assessments authorized by Section 10.3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement or a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of  $\frac{1}{2}$  plus 1 of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at the last known address of each Member, at least fifteen (15) days in advance and shall set forth the purpose of the meeting.
- 10.5 **CHANGE IN BASIS OF MAXIMUM OF ANNUAL ASSESSMENTS:** Subject to the limitations of Section 10.3 hereof, and for the purposes therein specified, the Association may change the maximum and basis of the assessments fixed by Section 10.3 hereof prospectively for any such period, provided that any such change shall have the assent of  $\frac{1}{2}$  plus 1 of the votes entitled to be cast by Members who are voting in person or by proxy, at a meeting duly called for this purpose, where a quorum is present, written notice of which shall be mailed to all Members at the last known mailing address of each voting Member at least fifteen (15) days in advance and shall set forth the purpose of the meeting. However, the amount and basis of the assessments shall not be reduced below the minimum level required for the Association to meet its obligations.
- 10.6 **QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 10.4 AND 10.5:** As to any meeting on any action authorized by Sections 10.4 and 10.5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast fifty-one percent (51%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 10.4 and 10.5.

- 10.7 **LATE PAYMENT OF ASSESSMENTS:** As hereinabove provided, each annual assessment shall be due and payable by the first (1<sup>st</sup>) day of January of each year. In the event default as to any payment (annual or special), and if the default is not remedied within ten (10) days, the Association shall have the option of taking such action as permitted by law or equity and by these Bylaws and the Declaration. An additional late charge of ten percent (10%) shall be assessed on any payment which is more than thirty (30) days delinquent. Costs of collection of the assessment, including attorney's fees therefore, shall also be assessed.

The due date of any special assessment under Section 10.4 hereof shall be fixed in the resolution of the Members of the Association authorizing such assessments, with the same option on the part of the Association in the event of default, and if no due date is affixed, then it shall be due within thirty (30) days after the approval of such special assessment.

- 10.8 **DUTIES OF THE BOARD OF DIRECTORS:** In addition to the other duties of the Board of Directors, the Board of Directors shall fix the date of any special assessment against each Lot for any special assessment period at least thirty (30) days in advance of such special assessment, written notice of the special assessment shall thereupon be sent to every Member subject thereto at the last known mailing address of such Member.

The Secretary of the Association, upon demand at any reasonable time, shall furnish to any Member liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

- 10.9 **EFFECT OF NON-PAYMENT OF ASSESSMENT AND THE LIEN REMEDIES OF THE ASSOCIATION:** If any assessment (annual or special) is not paid on the date when due (being the date specified in Section 10.7 hereof), then such assessment shall become delinquent as provided in Section 10.7 hereof and shall, together with such interest, late charges thereon and costs of collection thereof as herein provided, thereupon become a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, its successors, heirs, devisees, personal representatives and assigns. If the assessment is not paid as provided, it shall bear interest from date of delinquency at the maximum rate of interest allowed by law, not to exceed ten percent (10%) per annum, and the Association may foreclose the lien against said Lot, and there shall be added to the amount of such assessment the cost of attorney fees in connection with any court proceedings arising therefrom, together with all court costs, late charges and expenses incurred by the Association.

- 10.10 **SUBORDINATION OF THE LIEN OR MORTGAGES:** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon the Lots subject to

assessment; provided however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a Decree of Foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

- 10.11 **SUSPENSION OF RIGHTS OF MEMBERSHIP:** Prior to the foreclosure of any lien upon any Lot subject to these Bylaws and the Declaration, the Board of Directors of the Association may elect to suspend all membership rights of any Member or Members of the Association who are delinquent in any payment due to the Association for more than thirty (30) days, with such suspension to continue for so long as any such delinquency exists. Further, the Board of Directors may suspend membership rights for a period not to exceed thirty (30) days from the infraction of any use or regulations by the Member, family of the Member or guest of the Member, relating to the use of any of the Common Properties, Suspension of membership rights shall be effective from the date that notice of suspension is mailed to the Member via U.S. Certified mail, return receipt requested, postage prepaid, to the last known address of the said Member.
- 10.12 **CANCELLATION OF HEARING:** The Board of Directors may elect to permanently cancel the membership and all membership rights of any Member who is delinquent in any payment due to the Association for more than ninety (90) days or when such Member, family of the Member, or guest of the Member are guilty of repeated or flagrant violation(s) after hearing conducted by said Board of Directors, which notice of such hearing mailed to such Member at least thirty (30) days in advance of said hearing date, and further provided that such Member may appeal any such decision of said Board of Directors to the membership of the Associates by such affected Member calling a special meeting of the membership of the Association by notice mailed to each Member at least ten (10) days in advance of the desired special meeting date, and said notice setting forth the time, date, place and purpose of said meeting. A majority vote of the votes entitled to be cast by the Members of the Association attending such special meeting shall be necessary to override the decision of the Board of Directors, and all votes shall be by secret ballot. Notice shall be mailed by the Member via U.S. Certified mail, postage prepaid, return receipt requested.

## ARTICLE XI

### AUTHORITY OF MEMBERSHIP

- 11.1 **AUTHORITY OF MEMBERSHIP TO OVERRULE BOARD OF DIRECTORS:** The action of the Board of Directors may be overruled by a majority of votes entitled to be cast by the Members who are voting in person or by proxy at a meeting called by five or more Members in good standing, notice of which meeting shall be mailed to all Members at the last known mailing address

of each Member at least fifteen (15) days in advance, and shall set forth the purpose of the meeting.

- 11.2 **NO DETRIMENT TO THIRD PARTIES:** No action by the Members overruling the Board of Directors shall be effective to cause a detrimental effect on any third parties relying on prior action of the Board of Directors, nor shall any members of the Board of Directors be liable for damages for any action subsequently overruled at any membership meeting except for intentional acts of fraud or bad faith.

## ARTICLE XII

### INDEMNIFICATION

- 12.1 **GENERAL:** The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the Bylaws of the Association, the Board and the Developer and its successors in interest against all contractual and other liabilities to other arising out of contracts made by, or other acts of such directors, Board, officers, committee members or Developer, on behalf of the Lot Owners, or arising out of their status as directors, Board, officers, committee members or Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. The Association may obtain insurance for such purposes, which shall be an expense of the Association. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to counsel fees, amount of judgments paid, and amounts paid in settlement) reasonably incurred in connection with the defense or any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer Board, committee member or Developer may be involved by virtue of such persons being or have been such director, officer Board, committee member or Developer provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in action, suit or proceeding to be liable for gross negligence or fraud in the performances of his duties as such director, officer, Board, committee member or Developer, or (b) any matter settled or compromised, unless in the opinion of independent counsel selected by or in a manner determined by the Board, there is no reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as director, officer, Board, committee member or Developer.
- 12.2 **SUCCESS ON MERITS:** To the extent that the Board, Developer, a director, officer of the Association or member of any committee appointed pursuant to these Bylaws has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 12.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses

(including attorney's fees) actually and reasonably incurred by him in connection therewith.

- 12.3 **EXPENSES IN ADVANCE OF DISPOSITION:** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized in the specific case upon receipt of an undertaking by or on behalf of the director, officer, Board, committee member or Developer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.
- 12.4 **NON-EXCLUSIVE REMEDY:** The indemnification provided by this Article XII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of Members of the Association or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity that has ceased to be Developer, a director, an officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, personal representative, successors and assigns of such person or entity.

### ARTICLE XIII

#### AMENDMENTS

- 13.1 Any and all of the provisions contained in these Bylaws may be changed or amended by an instrument in writing, drafted so as to be recorded with the Registrar of Deeds in The Fort Smith District of Sebastian County, Arkansas, and signed by the Secretary of the Association. Amendments may be passed by a majority of the Board of Directors and does not require a vote by the Membership of the POA. During a vote to pass amendments the Board of Directors shall have a quorum of seventy-five percent (75%) present for a vote.

### ARTICLE XIV

#### INVALIDATION

- 14.1 **GOVERNING LAWS:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Arkansas.
- 14.2 **BY COURT ORDER:** Invalidation of any of these covenants and Bylaws by judgment or court order shall in no wise effect any of the other provisions herein contained.

- 14.3 **CONFLICT OF PROVISIONS:** Where any provision herein is in conflict with any resolution or regulation of the Association, the provisions herein shall control.

## ARTICLE XV

### NOTICE

- 15.1 **NOTICE BY MAIL AND WAIVER OF NOTICE:** Unless otherwise expressly provided herein, notice shall be effective when mailed postage prepaid, first class mail, to the person entitled to notice at the last known address of such person reflected by the records of the Association. Any notice required may be waived by waiver signed by the person entitled to notice or by the attendance of the person who is entitled to notice at any meeting where notice is required.
- 15.2 **NOTICE BY PERSONAL SERVICE:** Notice may be given to any person entitled to same by delivery of a copy of such notice by an officer or director of the Association (or agent thereof) to the person entitled to notice, with the officer or director delivering such notice to certify on a copy thereof. Said copy shall be maintained in the records of the Association.
- 15.3 **PERSON ENTITLED TO NOTICE:** The person entitled to notice shall be the person indicated by the books and records of the Association to be the person entitled to the voting rights for each of the said Lots and proper notice to such person shall be deemed to be the prior notice to all other Owners of any interest in a Lot. Notice of all meetings shall be given no more than forty-five (45) days and no fewer than fifteen (15) days in advance of said meeting.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the foregoing Declaration and Bylaws of the Park Meadow Addition adopted the Board of Directors of the Park Meadow Property Owner's Association on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Secretary

STATE OF \_\_\_\_\_ )

)ss: ACKNOWLEDGMENT

COUNTY OF \_\_\_\_\_ )

On this day, personally appeared before the undersigned, a Notary Public within and for the County and State aforesaid, duly qualified, commissioned and acting, \_\_\_\_\_ to me well known, who acknowledged that he/she was the \_\_\_\_\_, of **PARK MEADOW PROPERTY OWNER'S ASSOCIATION**, and that he/she, as such officer, being authorized so to do, has executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
(S E A L)

**EXHIBIT A**

**LEGAL DESCRIPTION**

Legal Description

Part of Stephens to ERC Land Development Group, LLC, Lot 1, being filed for record August 3, 2012 as plat 1891, Fort Smith, Sebastian County, Arkansas, said Lot being part of the Southeast Quarter of Section 10, Township 7 North, Range 32 West. Being more particularly described as follows:

Beginning at the northwest corner of said Lot 1; Thence along the north line of said Lot 1, S86°42'03"E, 700.00 feet to the northeast corner of said Lot 1; Thence along the east line of said Lot 1, S03°11'03"W, 500.00 feet; Thence continuing along said east line, S32°34'55"E, 91.11 feet; Thence leaving said east line, S57°25'07"W, 125.00 feet; Thence S49°18'05"W, 50.51 feet; Thence S58°40'36"W, 148.41 feet; Thence N25°06'03"W, 166.31 feet; Thence S49°30'21"W, 134.19 feet; Thence N87°02'11"W, 317.93 feet to the west line of said Lot 1; Thence along said west line, N03°11'03"E, 382.95 feet; Thence continuing along said west line, N03°17'57"E, 331.97 feet to the Point of Beginning. Containing 11.30 acres, more or less.

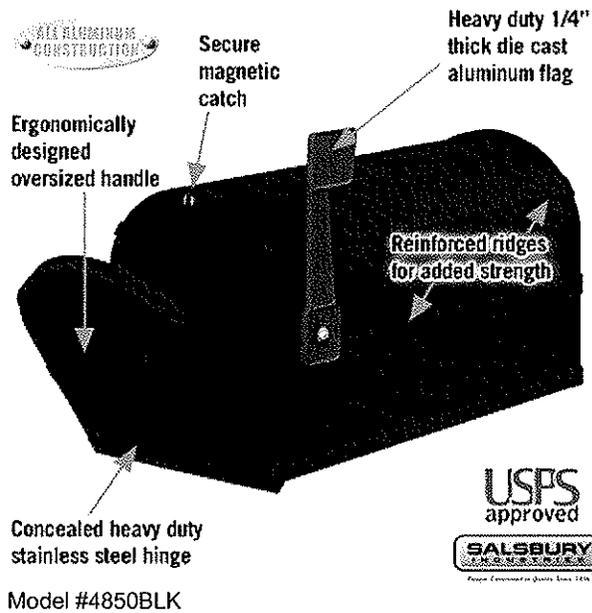
## EXHIBIT B

### Mailbox Detail

#### Salsbury 4800 Series Heavy Duty Rural Mailboxes

#### Features

- Mailboxes are U.S.P.S. approved
- Manufactured by Salsbury Industries to USPS-STD-7B specifications
- Made entirely of aluminum
- Constructed of a 1/8" thick extruded aluminum body with a 1/8" thick die cast aluminum front door and rear cover
- The die cast door is attached to the body with a full-width stainless steel hinge allowing for smooth operation
- Feature a durable powder coated finish available in black, green, beige and white
- Include an adjustable red signal flag and a magnetic door catch
- Mailboxes can be mounted on posts and in columns, masonry or walls
- Salsbury Industries is an ISO 9001: 2008 certified company and has excelled in the field of manufacturing since 1936



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 24, 2013

**Re:** Rezoning #7-6-13 - A request by Pat Mickle, agent for RA Young Properties Limited Partners, for Planning Commission consideration of a zone request from Residential Estate One Acre (RE-1) to Residential Single Family Medium Density (RS-2) by classification at 4101-4299 Cliff Drive

## LOT LOCATION AND SIZE

The subject property is on the north side of Cliff Drive. The tract contains an area of 19.1 acres.

## REQUESTED ZONING

The proposed zoning on this tract is Residential Single Family Medium Density (RS-2). Characteristics of this zone are as follows:

### Purpose:

To provide for detached homes in low-to-medium density single family neighborhoods where adequate public services and facilities are available. The RS-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Detached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

### Permitted Uses:

Single-family dwellings and family group homes are examples of permitted uses.

### Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 10,500 square feet	Maximum Height - 35 feet (1+1)
Maximum Density – 4 Dwelling Units/Acre	Maximum Lot Coverage - 50%
Minimum Lot Width at Building Line – 75 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 30 feet	
Side Yard on Street Side of Corner Lot - 30 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet	

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Residential Single Family Row House and Zero Lot Line District (RS-5) and Residential Single Family Duplex Low/Medium Density (RSD-2) and are developed as zero lot line and duplex dwellings.

The areas to the west are zoned Residential Single Family Duplex High Density (RSD-4) and Residential Single Family Duplex Low/Medium Density (RSD-2) and are developed as duplexes dwellings.

The areas to the east and south are zoned Residential Estate One Acre and are undeveloped.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance.

**PROPOSED ZONING**

The proposed zoning will support a single family subdivision.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held May 28, 2013, at Creekmore Park at 3301 South M Street. Three surrounding property owners attended the meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

The preliminary plat/development plan for a 24 lot single-family subdivision received planning commission approval on June 11<sup>th</sup>. A copy of the preliminary plat/development is enclosed.

Staff recommends approval of the rezoning request.

2B

**Neighborhood Meeting Minutes**  
Horseshoe Ridge  
May 28, 2013 5:30 PM  
Creekmore Park – Rose Room  
3301 South M Street, Fort Smith, Arkansas

A neighborhood meeting to discuss the Horseshoe Ridge subdivision project was held Tuesday, May 28, 2013 at 5:30 p.m. at the Creekmore Park Rose Room, 3301 South M Street, Fort Smith, Arkansas. In addition to the required notification area, the entire Sebastian Hills neighborhood was also notified. Pat Mickle & Cliff Ivey were present representing the developer and land owner. Mr. Mickle conducted the meeting. There were a total of six people in attendance, three of which were area neighbors from the Sebastian Hills neighborhood.

Pat Mickle gave a presentation on the purpose of the meeting, the zoning application, and development plan. Mr. Mickle explained that the zoning designation requested was single-family residential which the attendees indicated they supported. Mr. Mickle then went over the subdivision layout, pointed out the lot sizes, the access point on Cliff Drive, and the perimeter landscaping features. The neighbors indicated they would speak with other neighbors and advise of the specifics of the project. They indicated they had no objections to the proposals.

There being no other comments, the meeting adjourned at 6:00 p.m.

  
Patrick J. Mickle

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Creekmore Park Rose Room, 3301 South M Street, Fort Smith, AR

Meeting Time & Date Tuesday May 28, 2013 @ 5:30 p.m.

Meeting Purpose To discuss Horseshoe Ridge subdivision and zoning

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1. <u>Tyler Miller</u>	<u>City of Fort Smith</u>	<u>479-784-2241</u>
2. <u>Pat Mickue</u>	<u>MUE</u>	<u>649-8484</u>
3. <u>Cliff Ivey</u>	<u>Ivey LLC</u>	<u>479-414-9432</u>
4. <u>Claudia Edwards</u>	<u>3418 Cliff Dr.</u>	<u>479 648-6728</u>
5. <u>Bernice Brown</u>	<u>3410 cliff Dr</u>	<u>479 646 2033</u>
6. <u>Mark Edwards</u>	<u>3418 Cliff Dr</u>	<u>479-648-6728</u>
7.		
8.		
9.		
10.		
11.		

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

- 1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

See Attached

- 2. Address of property: 4101-4299 Cliff Drive

- 3. The above described property is now zoned: Not Zoned

- 4. Application is hereby made to change the zoning classification of the above described property to RS-2 by Classification.  
(Extension or classification)

- 5. Why is the zoning change requested?

To enable development of property into a single family detached residential  
subdivision.

- 6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Mickle Wagner Coleman, Inc.  
~~Owner or Agent Name~~  
*(please print)*

\_\_\_\_\_  
Owner

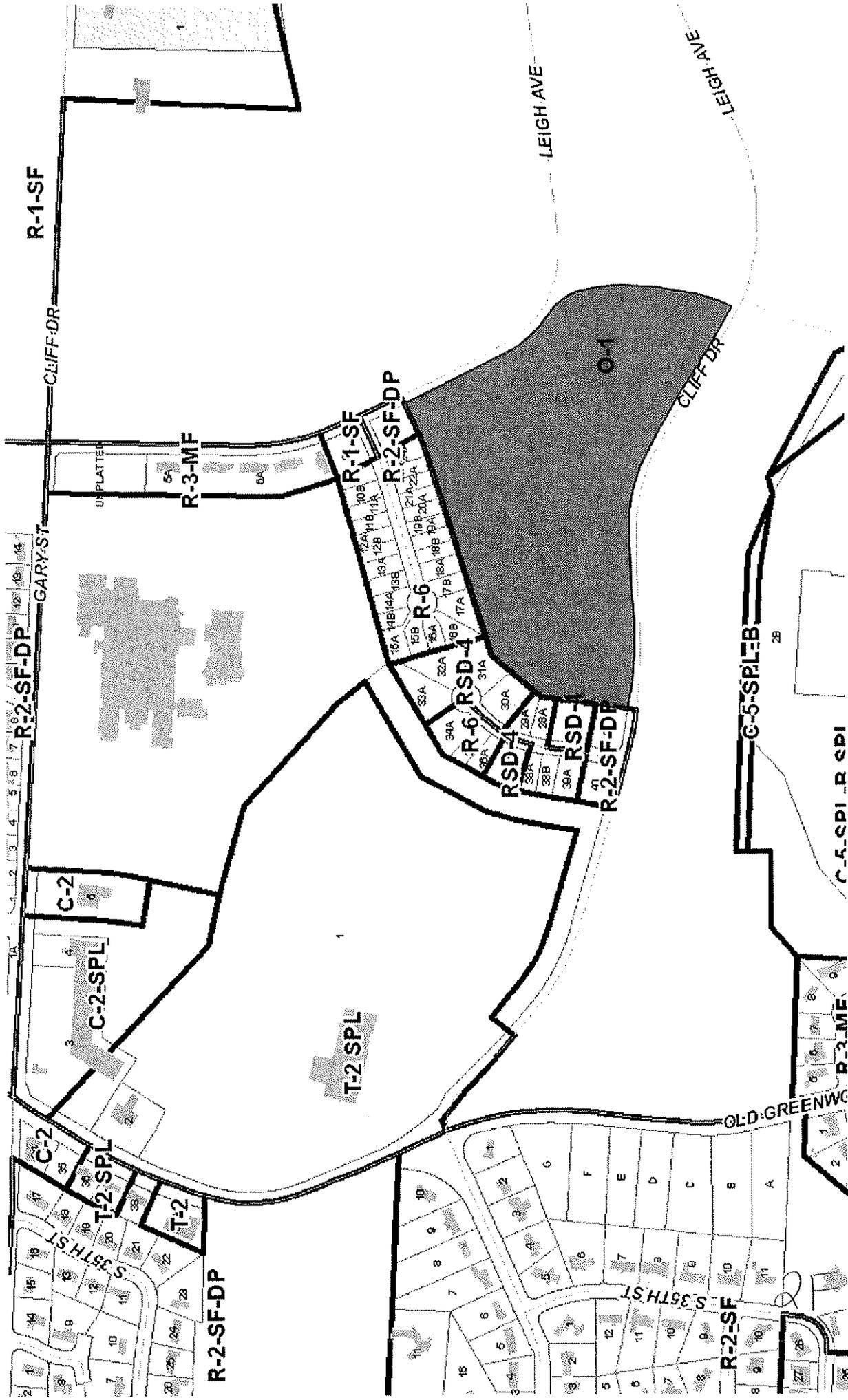
P.O. Box 1507, Fort Smith, AR 72902  
~~Owner or Agent Mailing Address~~

<sup>or</sup>  
Pat Mewis  
Agent

479-649-8484  
~~Owner or Agent Phone Number~~

# Rezoning #7-6-13: From Residential Estate One Acre (RE-1) to Residential Single Family Medium Density (RS-2)

4101-4299 Cliff Drive





# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 24, 2013

**Re:** Rezoning #9-7-13 - A request by Larry Hall, agent, for Planning Commission consideration of a zone request from Residential Single Family Duplex Low/Medium Density (RSD-2) to Commercial Light (C-2) by classification at 8201 Phoenix Avenue (Companion to item #5)

## LOT LOCATION AND SIZE

The subject property is on the northwest side of the intersection of Phoenix Avenue and Massard Road. The tract contains an area of 2.73 acres with approximately 257 feet of street frontage along Phoenix Avenue and approximately 174 feet of street frontage along Massard Road.

## EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2). Characteristics of this zone are as follows:

### Purpose:

To provide for attached and detached homes in low-to-medium density neighborhoods where adequate public services and facilities are available. The RSD-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

### Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

### Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 10,500 square feet	Maximum Height - 35 feet (1+1)
Maximum Density – 4 Dwelling Units/Acre	Maximum Lot Coverage - 50%
Minimum Lot Width at Building Line – 75 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 30 feet	
Side Yard on Street Side of Corner Lot - 30 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet	

**REQUESTED ZONING**

The proposed zoning on this tract is Commercial Light (C-2). Characteristics of this zone are as follows:

**Purpose:**

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

**Permitted Uses:**

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 7,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 30,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet	
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)	
Minimum Lot Width – 50 feet	
Minimum Street Frontage – 20 feet	

Front Yard Setback - 25 feet  
Side Yard on Street Side of Corner Lot - 10 feet  
Side Yard Setback – 10 feet  
Rear Yard Setback - 10 feet  
Minimum building separation – to be determined by current City building and fire code.  
Required street access – Major Collector or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Transitional (T) and Commercial Heavy (C-5) and developed as a restaurant and Mercy Medical Center.

The areas to the east are zoned Commercial Heavy (C-5) and developed as a dental office and pharmacy.

The areas to the south are zoned Residential Single Family Duplex Low/Medium Density (RSD-2) and developed as single family residences.

The areas to the west are zoned Transitional (T) and are developed as Mercy Medical Center.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance. (A companion item #5 is a Development Plan Review)

**PROPOSED ZONING**

The proposed rezoning will facilitate the development of a bank.

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, July 1, 2013 at 8100 Dallas Street. Two neighboring property owners attended the meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the rezoning request contingent upon approval of the development plan.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description) SEE ATTACHED

2. Address of property: 8201 PHOENIX AVE

3. The above described property is now zoned: RSD2

4. Application is hereby made to change the zoning classification of the above described property to CR by CLASSIFICATION.  
(Extension or classification)

5. Why is the zoning change requested?

PROSPECTIVE BUYER WOULD LIKE TO  
DEVELOP THE PROPERTY FOR A BRANCH  
BANK FACILITY.

6. Submit any proposed development plans that might help explain the reason for the request.

BMH ARCHITECTS

LARRY R. HALL

Owner or Agent Name

(please print)

Signed:

\_\_\_\_\_  
Owner

305 N. GREENWOOD.

Owner or Agent Mailing Address

or

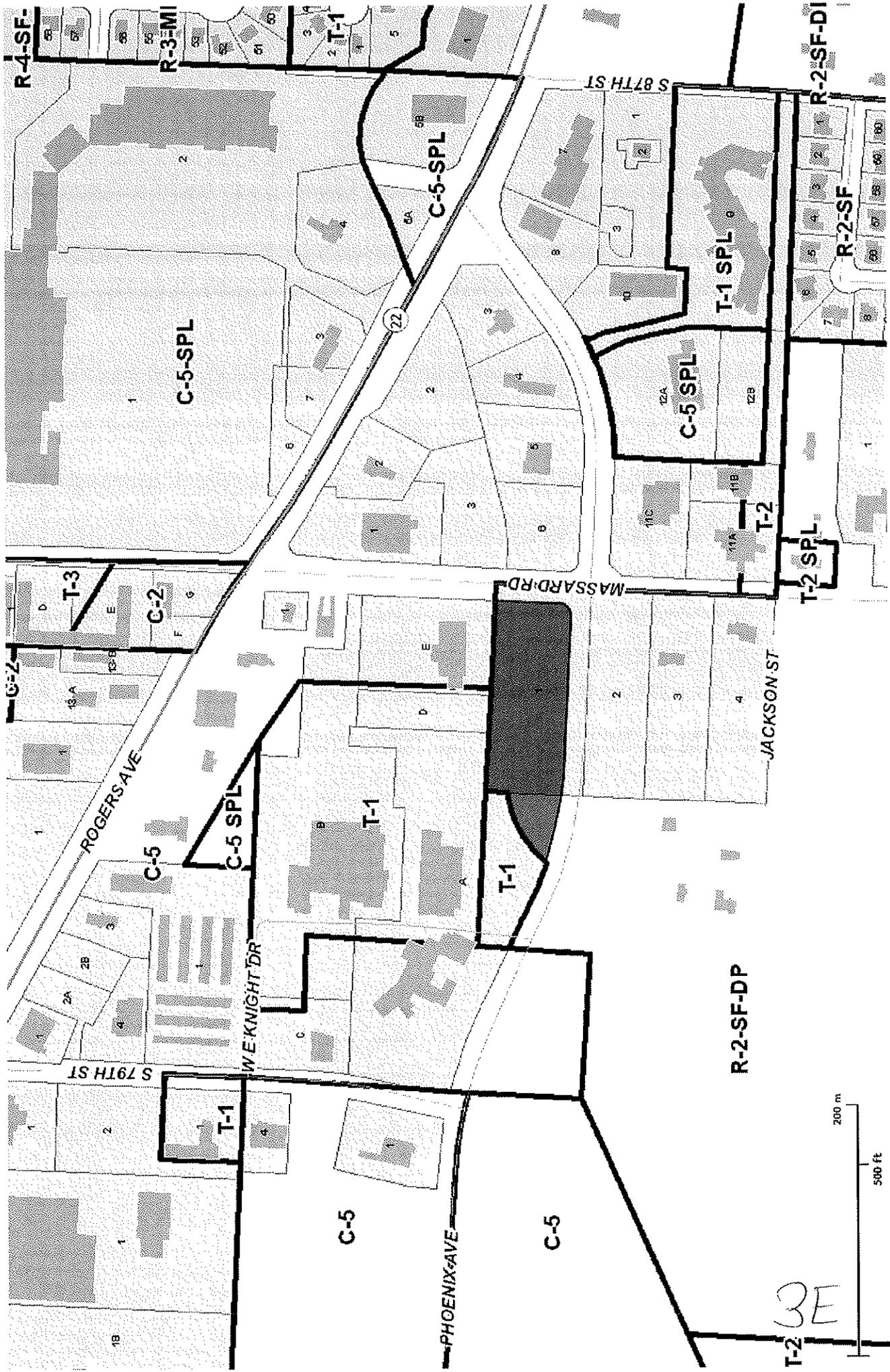
  
Agent

(479) 782-5049

Owner or Agent Phone Number

# Rezoning #9-7-13: From Residential Single Family Medium Density (RSD-2) to Commercial Light (C-2)

8201 Phoenix Avenue





**ATTENDANCE LIST FOR NEIGHBORHOOD MEETING**

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location FT. SMITH LIBRARY - DALLAS ST. BRANCH

Meeting Time & Date JULY 1, 2013 11:00 AM.

Meeting Purpose REZONING

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>LARRY B. HALL</u>	<u>305 N. GREENWOOD F.S.</u>	<u>782-5049</u>
2.	<u>TOM MONACO</u>	<u>CITY</u>	<u>784-2718</u>
3.	<u>LAWRENCE SHARUM</u>	<u>3812 MASSARD RD FS.</u>	<u>432-2555</u>
4.	<u>LARRY SHARUM</u>	<u>311 SIBYL DR CENTRAL CITY</u>	<u>452-8303</u>
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____



**BIGGERSTAFF  
MINDEN  
& HALL**

**Architects & Planners**

Charles P. Biggerstaff

Jo Dawn Minden

Larry R. Hall

305 N. Greenwood  
Fort Smith, AR 72903  
(479) 782-5049 Fax 782-5040

## Meeting Notes

**Date: July 1, 2013  
11:00 a.m.**

**Project: Summit Branch Bank-8201 Phoenix Ave.**

**Present: Larry R. Hall-Architect  
Don Keesee-Summit Bank  
Phillip Doss-Summit Bank  
Larry Sharum-present land owner  
Lawrence Sharum-present land owner  
Tom Monaco-City of Fort Smith-Planning Dept.**

**Project No: 13-03**

The purpose of the meeting was for anyone notified by mail to look over the project. The project was displayed on boards with the Site Plan/Landscape Plan and the Floor Plan/Front Elevation. All drawings were shown in color.

The Sharum's were shown the project. They seemed very happy with the layout.

No other questions or concerns were noted.

Meeting was dismissed at 11:45 a.m.

Larry R. Hall AIA  
e-mail address: [larry@bmhpa.com](mailto:larry@bmhpa.com)

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 24, 2013

**Re:** Development Plan Review - A request by Larry Hall, agent, for Planning Commission consideration of a Development Plan request to develop a Bank at 8201 Phoenix Avenue (Companion to item #4)

## LOT LOCATION AND SIZE

The subject property is on the northwest side of the intersection of Phoenix Avenue and Massard Road. The tract contains an area of 2.73 acres with approximately 257 feet of street frontage along Phoenix Avenue and approximately 174 feet of street frontage along Massard Road.

## PROPOSED ZONING

The proposed zoning on this tract is Commercial Light (C-2). Characteristics of this zone are as follows:

### Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event

center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 7,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 30,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet	
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)	
Minimum Lot Width – 50 feet	
Minimum Street Frontage – 20 feet	

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Transitional (T) and Commercial Heavy (C-5) and developed as a restaurant and Mercy Medical Center.

The areas to the east are zoned Commercial Heavy (C-5) and are developed as a dental office and a pharmacy.

The areas to the south are zoned Residential Single Family Duplex Low/Medium Density (RSD-2) and are developed as single family residences.

The areas to the west are zoned Transitional (T) and are developed as Mercy Medical Center.

**PROPOSED DEVELOPMENT PLAN**

The proposed development consists of a branch bank with three drive-thru lanes, one of which will be an ATM.

**SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – All ingress/egress will be located along Phoenix Avenue with the installation of two new driveways. A traffic information statement is required.

**Easement/utilities** – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

**Drainage** – The 2011 Storm Drainage Standards are required if site improvements exceed one acre.

**Floodplain** – The site is within the Little Massard Creek regulatory floodplain and will require a floodplain development permit.

**Right-of-way dedication** – No right-of-way dedication is required.

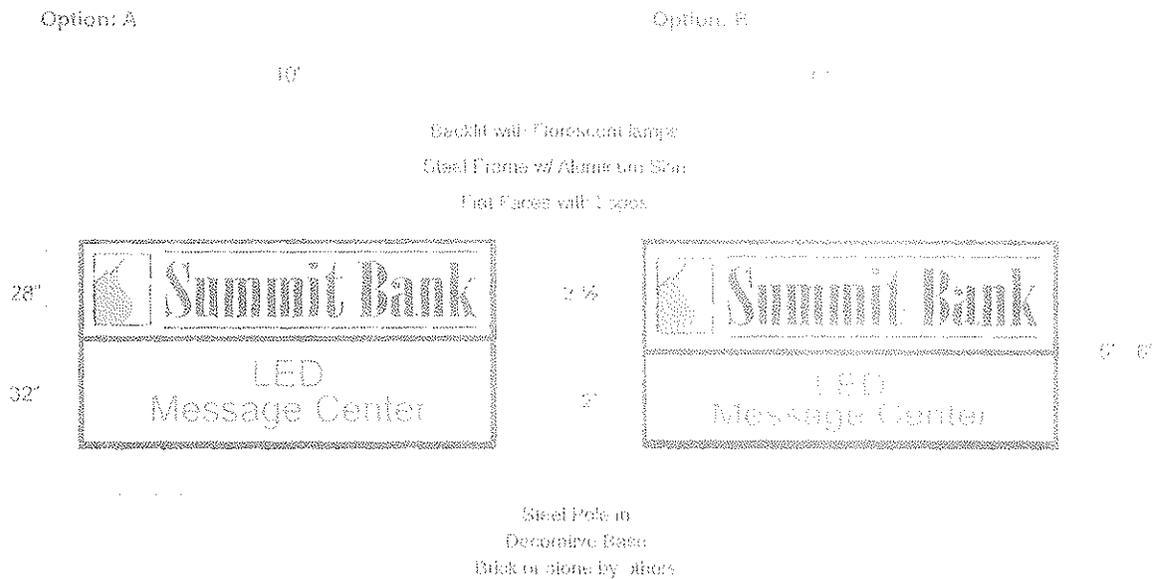
**Bikeway Corridor and Trails** – Phoenix Avenue is classified a Class 2 Bikeway and Massard Road is classified a Trail Corridor and Class 1 Bikeway. A 20’ wide easement shall be required adjacent to the Massard Road right-of-way line.

4B

**Landscaping** – The development plan shows a 10’ wide perimeter parking lot screening along and interior landscaping for vehicular use areas.

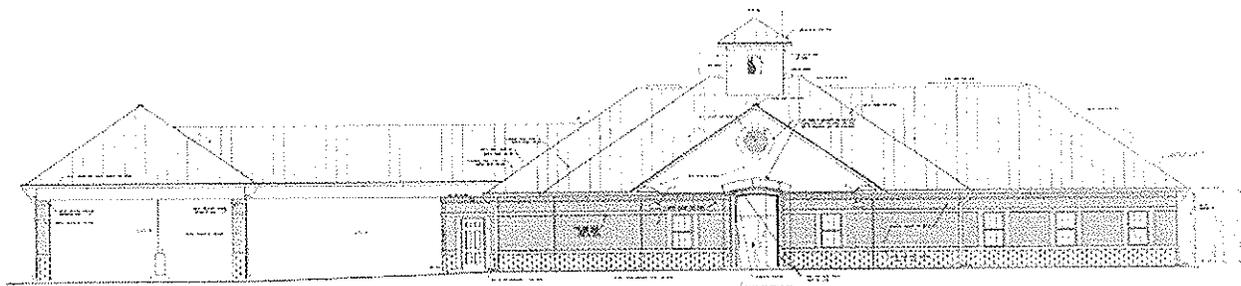
**Parking** – Fourteen parking spaces are required. The plans indicates that thirty two spaces are proposed, which exceeds the minimum parking spaces required.

**Signage** – A monument sign is proposed at the intersection of Phoenix Avenue and Massard Road. The sign meets the size requirements of the Phoenix Avenue Overlay District. Two sign designs were submitted for review. Option B meets the sign requirements of Section 27-440-(B). Option A is not approved because more than 50% of the sign is used for advertising, which does not comply with Section 27-440-(B)5 of the Phoenix Avenue Overlay District sign regulations.



**Lighting** – The development shows five (5) bronze 20’ pole lights. The proposed exterior lighting complies with the Unified Development Ordinance Section 27-602-5- Commercial and Outdoor Lighting requirements.

**Architectural features** – The building’s façade will be masonry with EIFS in the gable and a metal roof.



HC

## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, July 1, 2013 at 8100 Dallas Street. Two neighboring property owners attended the meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application contingent upon the following:

1. All construction must be built in accordance with the submitted Development Plan.
2. The project is located on the edge of the Airport Approach Zone and will require airport approval.
3. Massard Road is classified a Class Bikeway and Trail Corridor and will require dedication of a 20' wide easement adjacent to Massard Road.
4. The development shall not encroach the existing 100' drainage easement (Little Massard Creek).
5. Re-platting of property is required.
6. A traffic statement is required for this development.
7. The Phoenix Avenue extension access ordinance limits the site to two (2) driveways. No driveway approaches are permitted on Massard Road.
8. The site is within the Little Massard Creek regulatory floodplain and requires a flood plain development permit.
9. Stormwater water quality treatment in accordance with the 2011 Storm Drainage Standards is required if the site improvements exceed one acre.
10. The Option A sign design is not approved because more than 50% of the sign is used for advertising, which does not comply with Section 27-440-(B)5 of the Phoenix Avenue Overlay District sign regulations.

DEVELOPMENT PLAN REVIEW APPLICATION

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description) (SEE ATTACHED)

2. Address of property: B201 PHOENIX AVE

3. The above described property is now zoned: B2-SF-DF

4. Does the development plan include a companion rezoning request?

Yes X No \_\_\_\_\_

5. If yes, please specify the companion application submitted:

- Conventional Rezoning
- Planned Rezoning
- Conditional Use
- Master Land Use Plan Amendment
- Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:

CR by CLASSIFICATION  
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

ZONES T-1, C-5  
STRUCTURES: WALGREEN'S, FUKI'S STEAKHOUSE,  
MARKETPLACE RESTAURANT, ST. EDWARD'S OUTPATIENT SURGERY FACILITY

8. Total acreage of property 2.73

Signed:

BIM ARCHITECTS  
LARRY B. HALL

Owner or Agent Name  
(please print)

\_\_\_\_\_  
Owner

305 N. GREENWOOD  
Owner or Agent Mailing Address

or

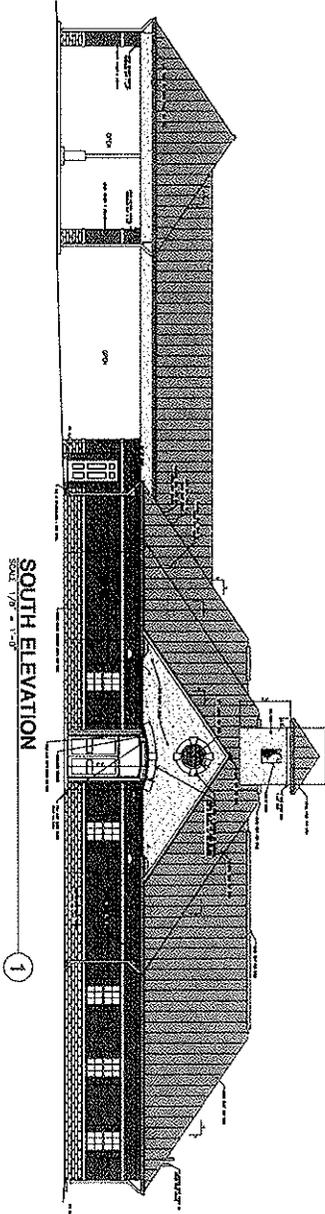
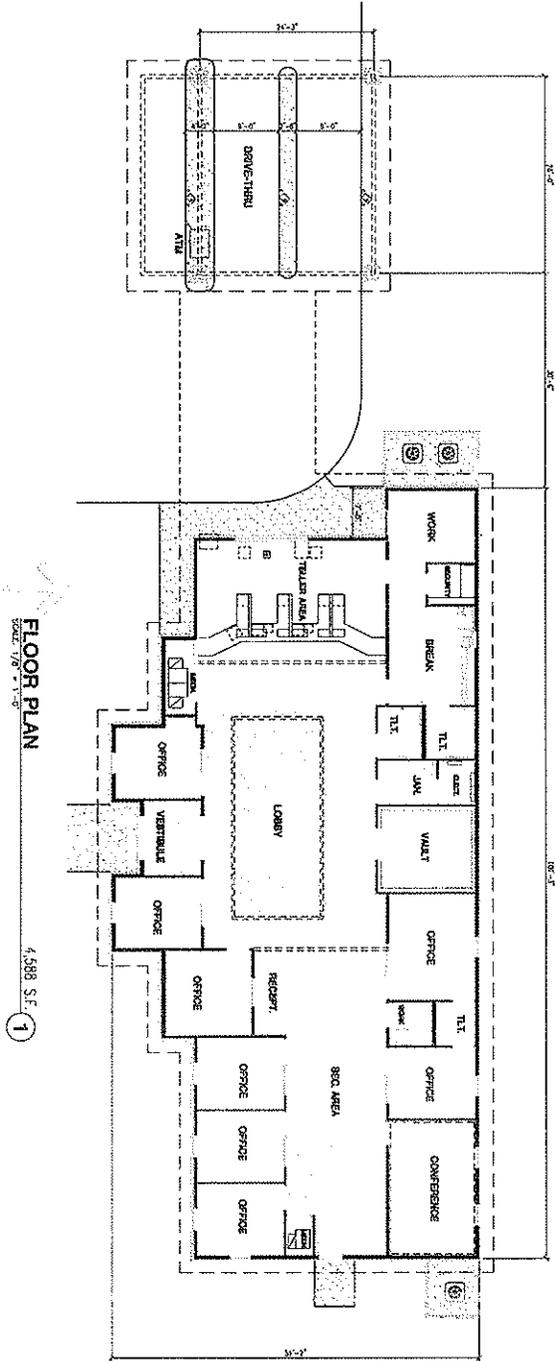
*Larry B. Hall*  
Agent

(479) 782-5049  
Owner or Agent Phone Number





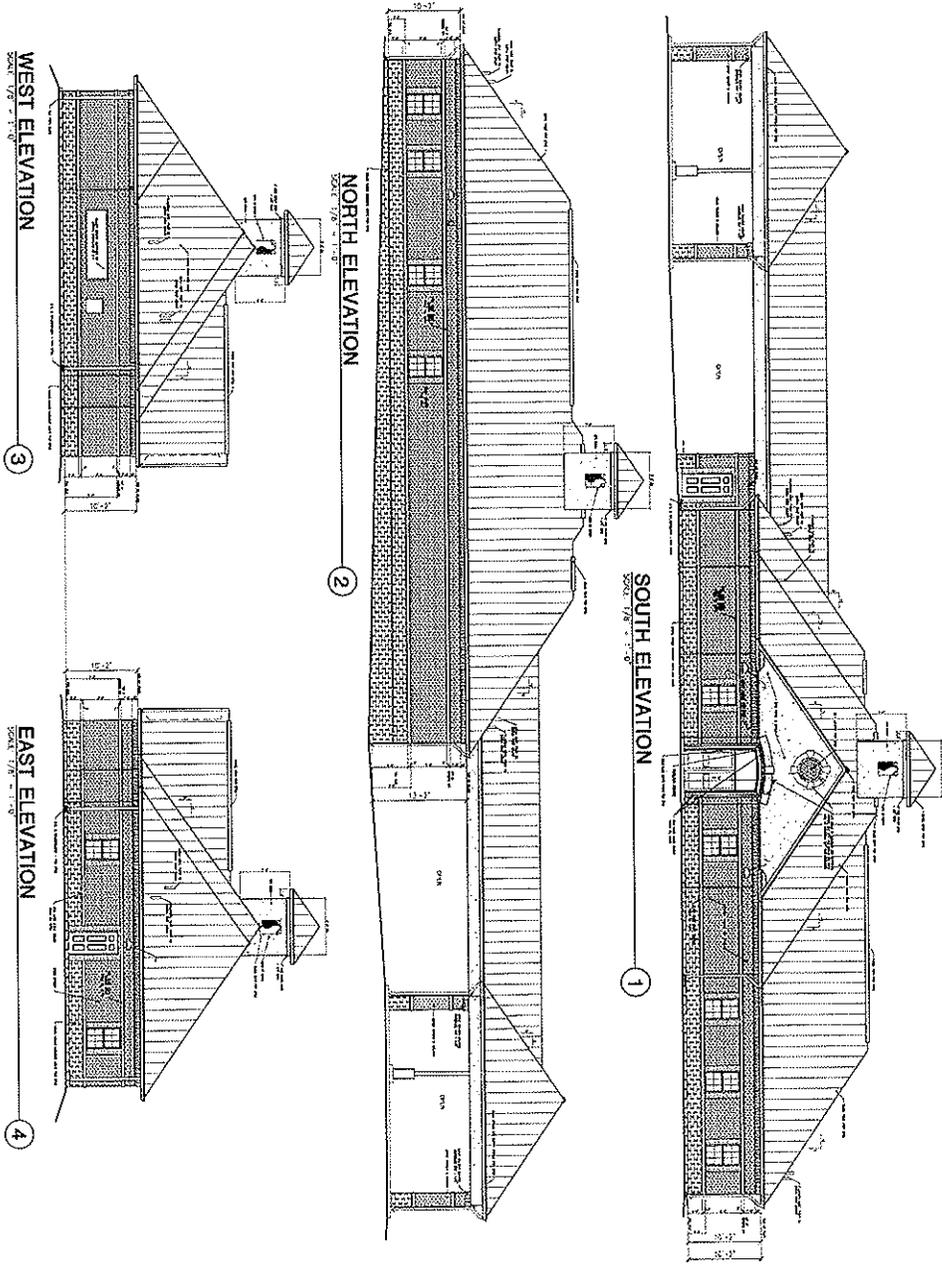




**PRELIM**

DATE: PROJECT NO.: SHEET: <b>A1</b> OF	13-03		<b>BIGGERSTAFF MINDEN &amp; HALL P.A.</b> ARCHITECTS & PLANNERS 505 NORTH GREENWOOD    505 SOUTH MAIN FORT SMITH, ARKANSAS 72301    (501) 781-5241 FAX 781-5242		<p>Branch Bank Facility for <b>Summit Bank</b> 8201 Phoenix Ave. Fort Smith, Arkansas</p>
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45



PRELIM

DATE	0-14-13
PROJECT NO	13-03
SHEET	A3
OF	



**BIGGERSTAFF MINDEN & HALL P.A.**  
 ARCHITECTS & PLANNERS  
 305 NORTH CREEKWOOD    420' 02" ADVANCE 73021    076, 751-5041 FAX 751-5142

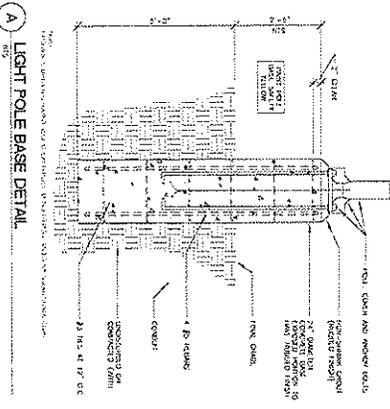
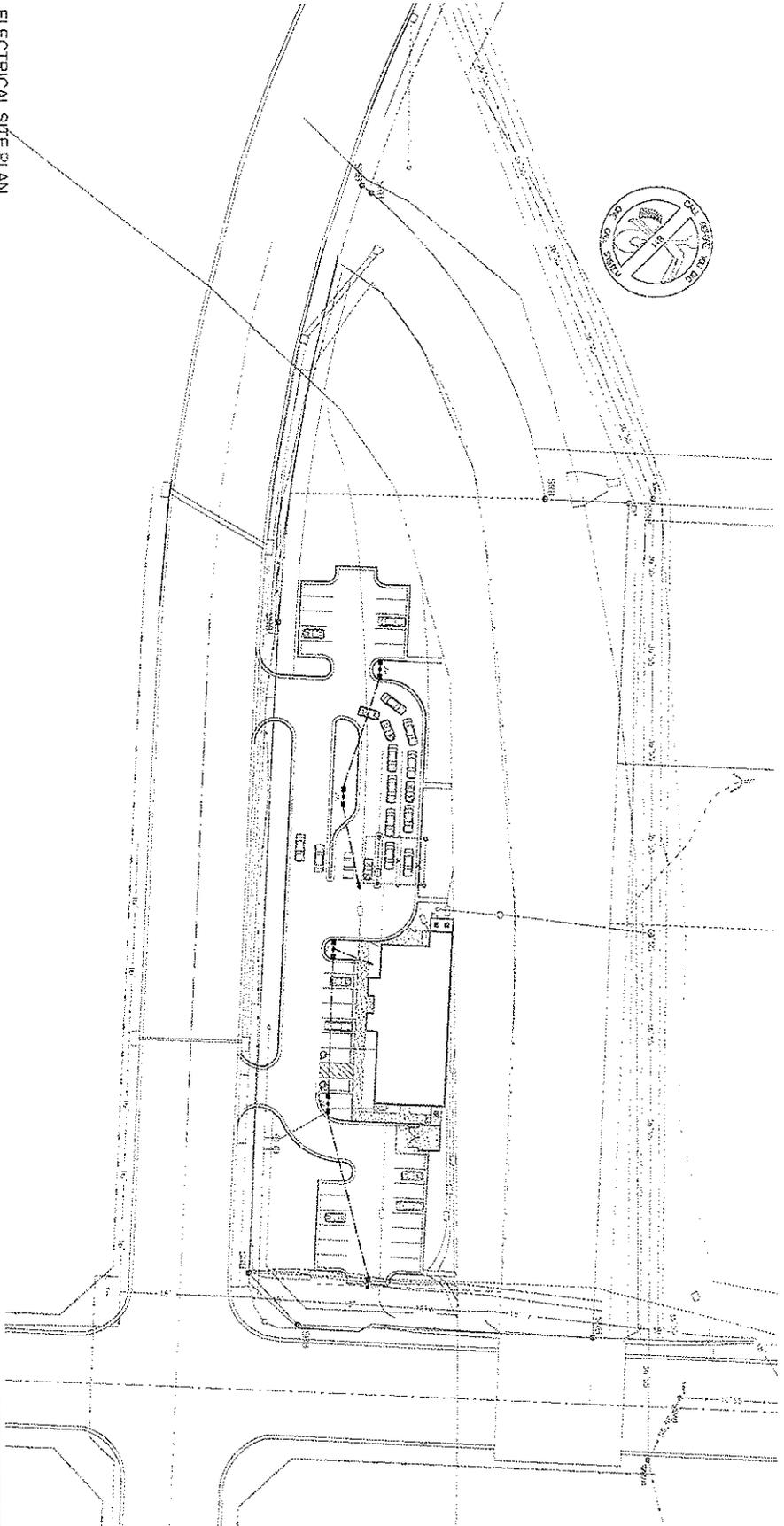


Branch Bank Facility  
 for  
**Summit Bank**  
 8201 Phoenix Ave.  
 Fort Smith, Arkansas

HR



ELECTRICAL SITE PLAN



A LIGHT POLE BASE DETAIL

**LIGHTING FIXTURE SCHEDULE**

SYMBOL	TYPE	WATTAGE	HEIGHT	DESCRIPTION	QTY	NOTES
ZA	RECESSED	20	5'	RECESSED DOWN LIGHT	1	
ZB	RECESSED	20	5'	RECESSED DOWN LIGHT	1	

YOUNG  
 CONSULTANTS  
 ARCHITECTS  
 1000 N. GARDNER  
 FORT SMITH, AR 72204  
 (501) 782-5500

PRELIM

DATE	0-14-13
PROJECT NO.	13-03
SHEET	E1

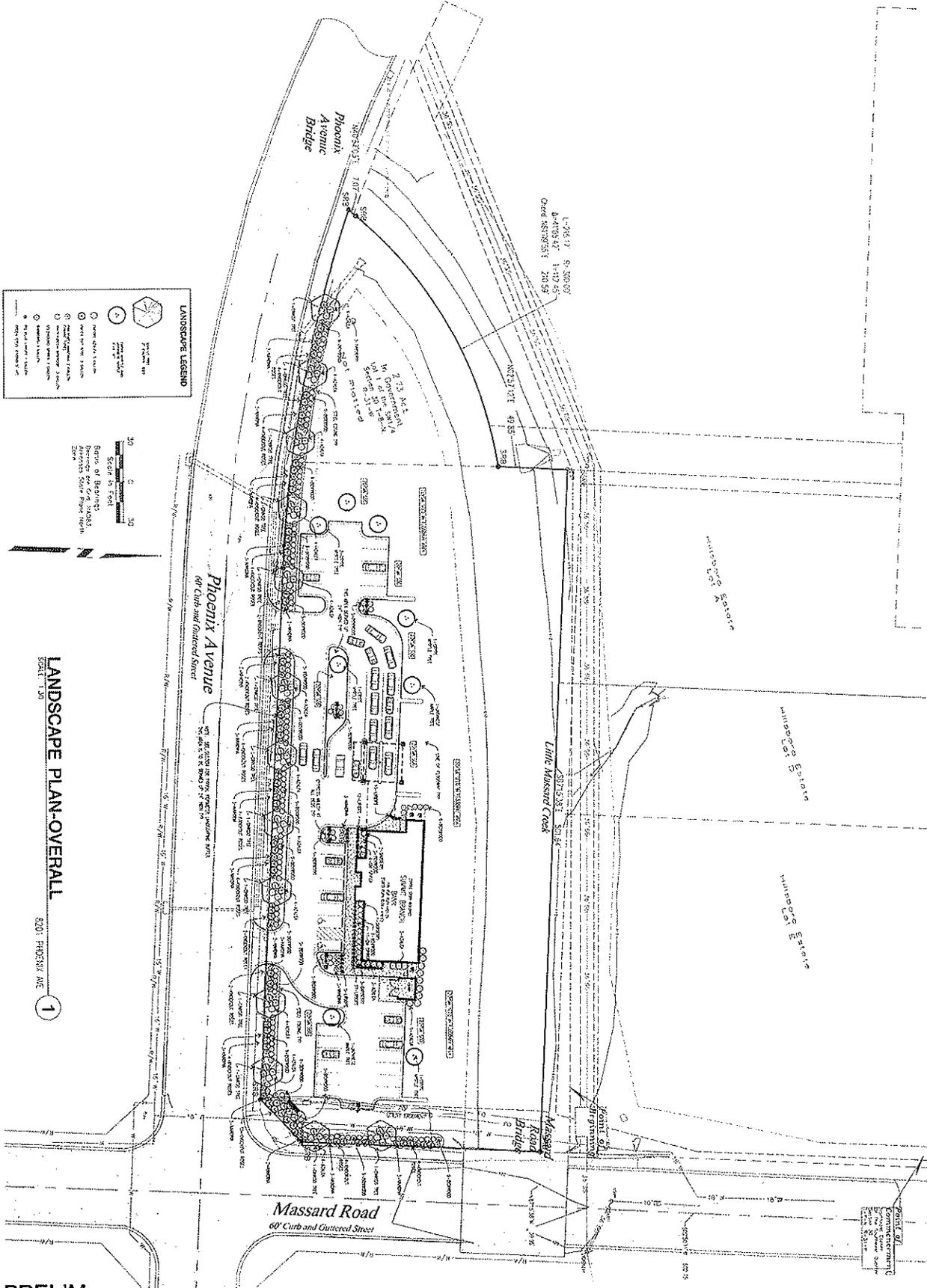


**BIGGERSTAFF MINDEN & HALL, P.A.**  
 ARCHITECTS & PLANNERS  
 205 NORTH GREENWOOD FORT SMITH, ARKANSAS 72202 (501) 782-5500 FAX 782-5504

Branch Bank Facility  
 for  
**Summit Bank**  
 8201 Phoenix Ave.  
 Fort Smith, Arkansas

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PRELIM

DATE	5-14-13
PROJECT NO	13-03
SHEET	L1
OF	2



**BIGGERSTAFF MINDEN & HALL P.A.**  
ARCHITECTS & PLANNERS  
555 TARDON GREENWOOD FORT SMITH, ARKANSAS 72901 (479) 793-0200 FAX (479) 500-5555

Branch Bank Facility for  
**Summit Bank**  
8201 Phoenix Ave.  
Fort Smith, Arkansas

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**BIGGERSTAFF  
MINDEN  
& HALL**

**Architects & Planners**

Charles P. Biggerstaff

Jo Dawn Minden

Larry R. Hall

305 N. Greenwood  
Fort Smith, AR 72903  
(479) 782-5049 Fax 782-5040

## Meeting Notes

**Date: July 1, 2013  
11:00 a.m.**

**Project: Summit Branch Bank-8201 Phoenix Ave.**

**Present: Larry R. Hall-Architect  
Don Keesee-Summit Bank  
Phillip Doss-Summit Bank  
Larry Sharum-present land owner  
Lawrence Sharum-present land owner  
Tom Monaco-City of Fort Smith-Planning Dept.**

**Project No: 13-03**

The purpose of the meeting was for anyone notified by mail to look over the project. The project was displayed on boards with the Site Plan/Landscape Plan and the Floor Plan/Front Elevation. All drawings were shown in color.

The Sharum's were shown the project. They seemed very happy with the layout.

No other questions or concerns were noted.

Meeting was dismissed at 11:45 a.m.

Larry R. Hall AIA  
e-mail address: larry@bmhpa.com

**ATTENDANCE LIST FOR NEIGHBORHOOD MEETING**

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location FT SMITH LIBRARY - DALLAS ST. BRANCH

Meeting Time & Date JULY 1, 2013 11:00 AM.

Meeting Purpose REZONING

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1. <u>LARRY R. HALL</u>	<u>305 N. GREENWOOD FS.</u>	<u>782-5049</u>
2. <u>TOM MONACO</u>	<u>CITY</u>	<u>784-2718</u>
3. <u>LAWRENCE SHARUM</u>	<u>3812 MASSARD RD FS.</u>	<u>432-2555</u>
4. <u>LARRY SHARUM</u>	<u>311 SIBYL DR CENTRAL CITY</u>	<u>452-8303</u>
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 25, 2013

**Re:** Development Plan Review - A request by Travis Brisendine, agent for Umarex USA, for Planning Commission consideration of a Development Plan request to expand an existing manufacturing facility at 7700 Chad Colley Boulevard (Companion to item #18)

## LOT LOCATION AND SIZE

The subject property is located on the west side of Chad Colley Boulevard between Roberts Boulevard and Custer Boulevard. The tract contains an area of 27 acres with approximately 1,332 feet of street frontage along Chad Colley Boulevard.

## EXISTING ZONING

The existing zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

### Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

### Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

### Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 20,000 square feet  
(1+1)

Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is not zoned and is undeveloped.

The area to the east is not zoned and is developed as an animal food processing plant (Mars Pet Care).

The area to the south is not zoned and is developed as a contractor shop.

The area to the west is not zoned and developed with warehouse structures.

**PROPOSED DEVELOPMENT PLAN**

The development plan proposes a 60,000 s.f. textured metal expansion to the existing Umarex building at 7700 Chad Colley Boulevard. The development plan will also include a parking lot expansion.

**SITE DESIGN FEATURES**

**Easement/utilities** – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City’s Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

**Drainage** – A development plan shows a proposed detention pond on the north side of the building just east of the parking lot improvements. The drainage has been submitted and reviewed by the engineering department.

**Landscaping** – The development plan proposes landscaping around the improved parking lot and detention pond area.

**Screening** – The landscaping around the improved parking lot and detention pond area will be utilized for screening.

**Parking** – The proposed parking lot improvements shows 155 parking spaces and is compliant with UDO minimum parking requirements.

**Lighting** – The proposed exterior lighting shall comply with the light design and specifications required by the Chaffee Crossing Master Development Guidelines.

**Architectural Features** – The façade of the building expansion will consist of textured metal and concrete masonry unit.

### **STAFF COMMENTS AND RECOMMENDATIONS**

The planning commission approved a similar development plan that consisted of approximately 57,000 s.f. of expansion with the same architect features and design during the May 14<sup>th</sup> Planning Commission meeting. Staff believes that the additional 3,000 s.f. expansion will not affect the original design or approval. Staff recommends approval of the application with the following comments:

- Approval by the Chaffee Crossing - Design Review Committee.
- Approval of the companion variance application.
- All construction must be built in accordance with the submitted Development Plan.
- All exterior lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow.
- All new signs will require a separate plan review and building permit.
- The conceptual development plan that has been submitted will be further reviewed for all codes and ordinances when a more detailed plan is submitted for a building permit. The Planning Commission approval of the development plan does not waive or provide any variances for any codes or standards required for development.

**DEVELOPMENT PLAN REVIEW APPLICATION**

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

2. Address of property: 7700 Chad Colley boulevard

3. The above described property is now zoned: I-1

4. Does the development plan include a companion rezoning request?

Yes \_\_\_\_\_ No x

5. If yes, please specify the companion application submitted:

- Conventional Rezoning
- Planned Rezoning
- Conditional Use
- Master Land Use Plan Amendment
- Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:

I-1 by \_\_\_\_\_  
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

Mars Petcare, Mitsubishi energy, open land, warehouse  
facilities

8. Total acreage of property 27

Signed:

TRAVIS BRISNDINZ

Owner or Agent Name  
(please print)

P.O. Box 10064, 72917

Owner or Agent Mailing Address

452-1933

Owner or Agent Phone Number

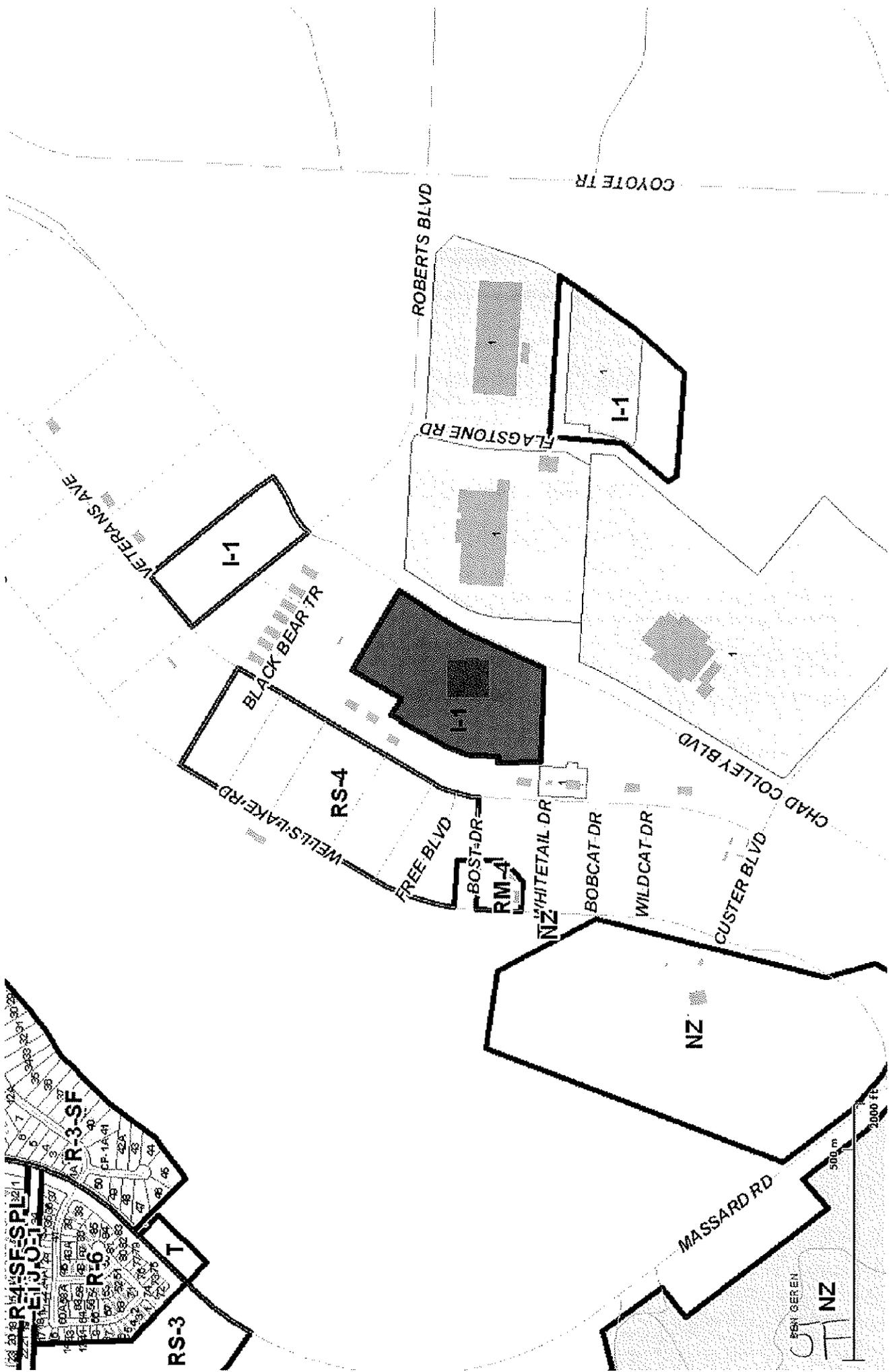
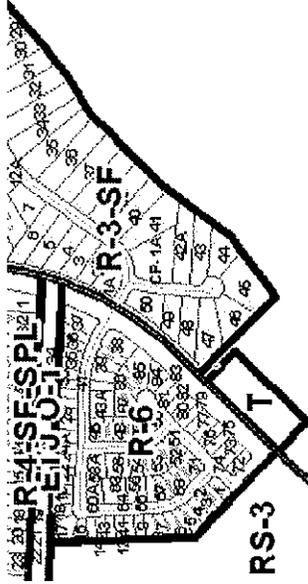
\_\_\_\_\_  
Owner

or

T. Brisndinz  
Agent

# Development Plan Review: Building Addition and Parking Lot Addition

7700 Chad Colley Boulevard



### SITE AREA CALCULATIONS

Total Site Area: 118,431 SF (2.7 Acres)

Proposed Impervious Area: 89,346 SF\*

Proposed Impervious Percentage: 75.5%

East Parking Area: 142,200 SF\*

Building Area: 142,200 SF\*

Proposed Non-Impervious Pavement Area: 42,426 SF

Proposed Interior Island Landscaping: 3,163 SF

\* Includes Sub-Proposed Impervious Areas

Impervious Areas

Green Space

### PARKING SUMMARY

DESCRIPTION	PARKING REQUIREMENTS	NUMBER OF SPACES
OFFICE (10,000 SF)	1:100	100
MANUFACTURING 1 (100,000 SF)	1:100	1,000
MANUFACTURING 2 (100,000 SF)	1:100	1,000
MANUFACTURING 3 (100,000 SF)	1:100	1,000
MANUFACTURING 4 (100,000 SF)	1:100	1,000
MANUFACTURING 5 (100,000 SF)	1:100	1,000
MANUFACTURING 6 (100,000 SF)	1:100	1,000
MANUFACTURING 7 (100,000 SF)	1:100	1,000
MANUFACTURING 8 (100,000 SF)	1:100	1,000
MANUFACTURING 9 (100,000 SF)	1:100	1,000
MANUFACTURING 10 (100,000 SF)	1:100	1,000
MANUFACTURING 11 (100,000 SF)	1:100	1,000
MANUFACTURING 12 (100,000 SF)	1:100	1,000
MANUFACTURING 13 (100,000 SF)	1:100	1,000
MANUFACTURING 14 (100,000 SF)	1:100	1,000
MANUFACTURING 15 (100,000 SF)	1:100	1,000
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MANUFACTURING 94 (100,000 SF)	1:100	1,000
MANUFACTURING 95 (100,000 SF)	1:100	1,000
MANUFACTURING 96 (100,000 SF)	1:100	1,000
MANUFACTURING 97 (100,000 SF)	1:100	1,000
MANUFACTURING 98 (100,000 SF)	1:100	1,000
MANUFACTURING 99 (100,000 SF)	1:100	1,000
MANUFACTURING 100 (100,000 SF)	1:100	1,000

### LEGEND

Property Line

Boundary

Right-of-Way

Utility Appliance

Standard Daily Asphalt Pavement

Concrete Slabwork

Concrete Curb & Gutter

Proposed Reinforced Concrete

Proposed Concrete Slabwork

Proposed Concrete Paving

Proposed Concrete

Proposed 4" Polystyrene

Proposed 6" Polystyrene

Proposed 8" Polystyrene

Proposed 10" Polystyrene

Proposed 12" Polystyrene

Proposed 14" Polystyrene

Proposed 16" Polystyrene

Proposed 18" Polystyrene

Proposed 20" Polystyrene

Proposed 22" Polystyrene

Proposed 24" Polystyrene

Proposed 26" Polystyrene

Proposed 28" Polystyrene

Proposed 30" Polystyrene

Proposed 32" Polystyrene

Proposed 34" Polystyrene

Proposed 36" Polystyrene

Proposed 38" Polystyrene

Proposed 40" Polystyrene

Proposed 42" Polystyrene

Proposed 44" Polystyrene

Proposed 46" Polystyrene

Proposed 48" Polystyrene

Proposed 50" Polystyrene

Proposed 52" Polystyrene

Proposed 54" Polystyrene

Proposed 56" Polystyrene

Proposed 58" Polystyrene

Proposed 60" Polystyrene

Proposed 62" Polystyrene

Proposed 64" Polystyrene

Proposed 66" Polystyrene

Proposed 68" Polystyrene

Proposed 70" Polystyrene

Proposed 72" Polystyrene

Proposed 74" Polystyrene

Proposed 76" Polystyrene

Proposed 78" Polystyrene

Proposed 80" Polystyrene

Proposed 82" Polystyrene

Proposed 84" Polystyrene

Proposed 86" Polystyrene

Proposed 88" Polystyrene

Proposed 90" Polystyrene

Proposed 92" Polystyrene

Proposed 94" Polystyrene

Proposed 96" Polystyrene

Proposed 98" Polystyrene

Proposed 100" Polystyrene

### SITE ZONING: I-1

(Industrial Light District)

I-1 Minimum Setback Requirements (ft.)

FRONT	REAR	SIDE	MINIMUM
25	10	15	10
25	10	15	10
25	10	15	10

Min. Building Height - 45'

Max. Lot Coverage - 75%

OWNER & DEVELOPERS

UMAREXUSA

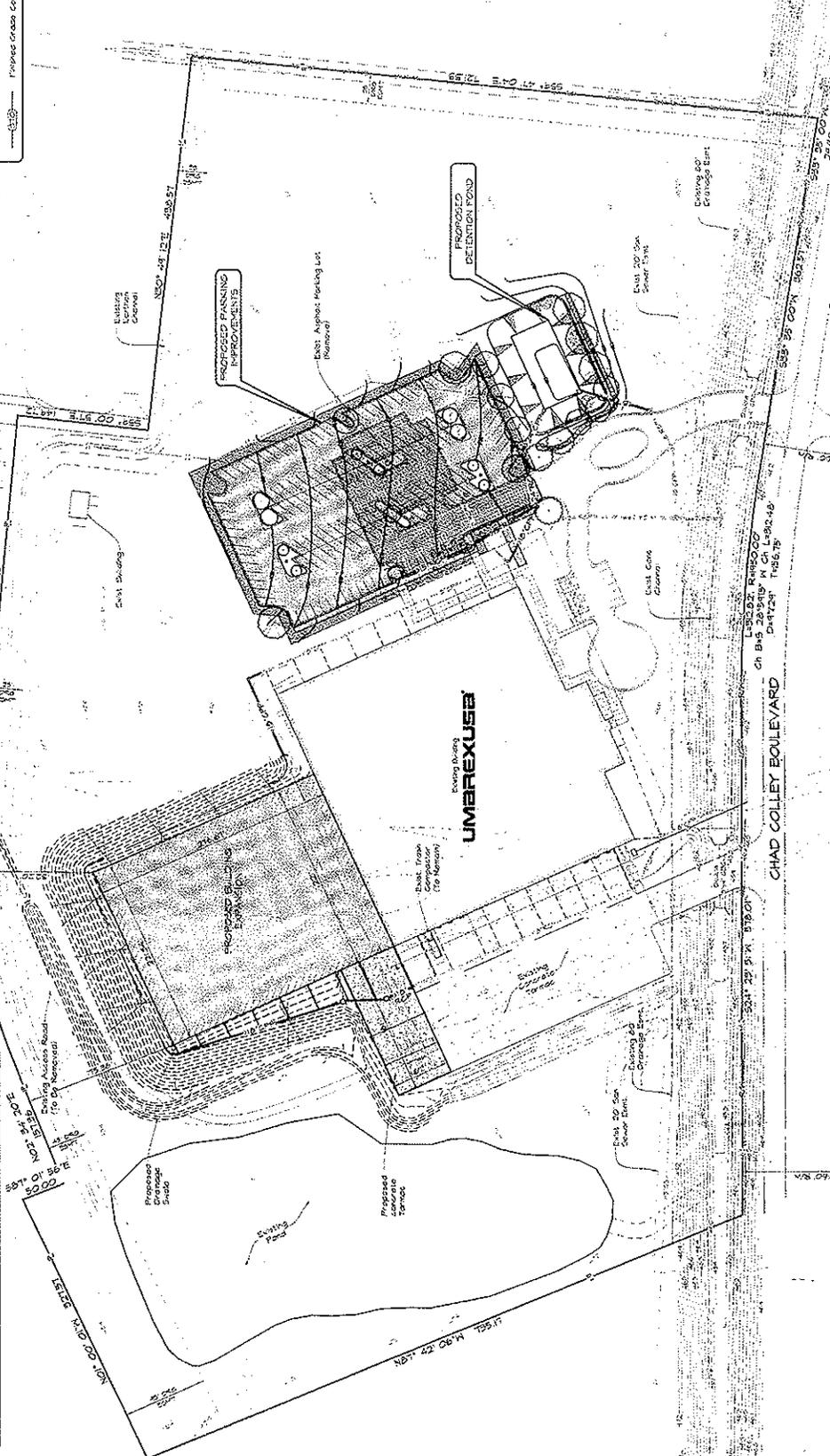
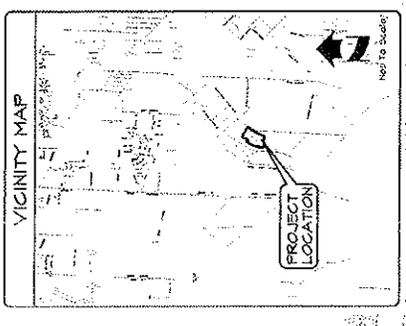
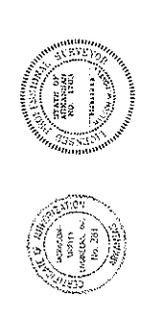
2300 Chad Colley Boulevard

Fort Smith, AR 72536

BOUNDARY DESCRIPTION

Survey Address: U.S. 1 Filed

May 1, 2001



DEVELOPMENT PLAN  
for  
BUILDING/PARKING EXPANSION

Issued for Review

Fort Smith, Arkansas

DATE: 05/11/2011

BY: [Signature]

PROJECT NO: 11-0001

SCALE: AS SHOWN

DATE: 05/11/2011

BY: [Signature]

PROJECT NO: 11-0001

SCALE: AS SHOWN

MORRISON SHIPLEY

ENGINEERS • SURVEYORS

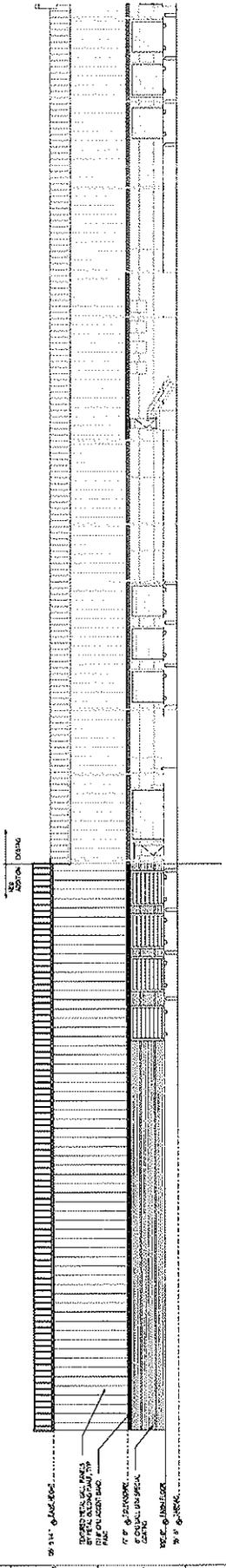
P.O. Box 10004 • Fort Smith, AR 72517 • 479-621-1400 • morrisonshipley.com

ARKANSAS REGISTERED PROFESSIONAL ENGINEER

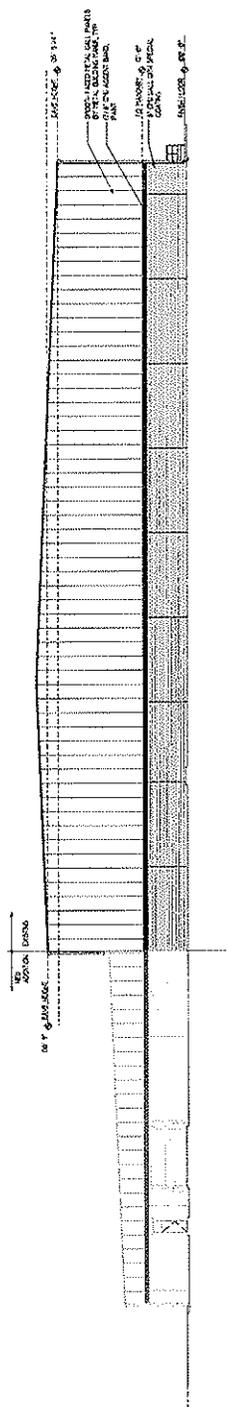
NO. 11-0001

EXPIRES: 12/31/2011

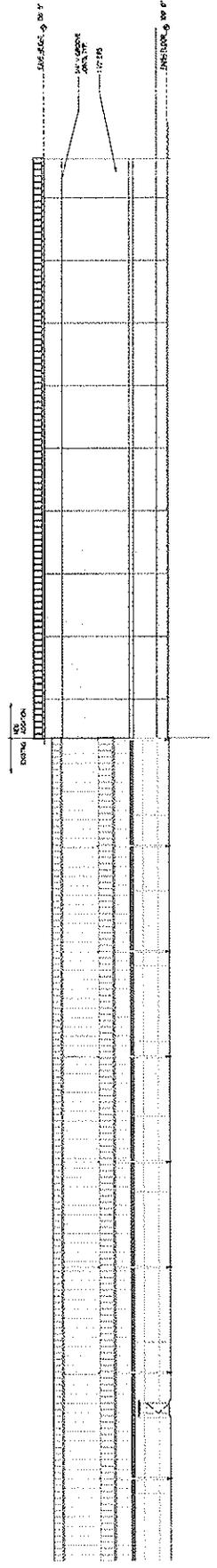
56



**K14** South Elevation  
10' 0" @ 16" O.C.  
10' 0" @ 24" O.C.  
10' 0" @ 36" O.C.  
10' 0" @ 48" O.C.  
10' 0" @ 60" O.C.



**F14** West Elevation  
10' 0" @ 16" O.C.  
10' 0" @ 24" O.C.  
10' 0" @ 36" O.C.  
10' 0" @ 48" O.C.  
10' 0" @ 60" O.C.



**B14** North Elevation  
10' 0" @ 16" O.C.  
10' 0" @ 24" O.C.  
10' 0" @ 36" O.C.  
10' 0" @ 48" O.C.  
10' 0" @ 60" O.C.

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 25<sup>th</sup>, 2013

**Re:** Development Plan Review - A request by Lorrie Runion, agent for Tim Hearn, for Planning Commission consideration of a Development Plan request to develop a canopy at 1701 South Greenwood Road

## LOT LOCATION AND SIZE

The subject property is located on the east side of South Greenwood Road between South O Street and South Q Street. The tract contains an area of 0.51 acres with 150 feet of street frontage along South Greenwood Road and 150 feet of street frontage along South P Street.

## EXISTING ZONING

The existing zoning on this tract is Commercial Light SPL (C-2 SPL).

Characteristics of this zone are as follows:

### Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet

cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 7,000 square feet (1+1)
- Maximum Building Size – 30,000 square feet 60%
- Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet
- Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)
- Minimum Lot Width – 50 feet
- Minimum Street Frontage – 20 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 10 feet
- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Collector or higher
- Maximum Height - 35 feet
- Maximum Lot Coverage -

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Commercial Light Special (C-2-SPL) and is developed as a single family home.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and Residential Single Family Medium/High Density (RSD-3) and are developed as an apartment complex and single family homes.

The area to the south is zoned (C-2-SPL) and is developed as American Red Cross and retail sales.

The area to the west is zoned (RM-3) and is developed as a school.

**PROPOSED DEVELOPMENT PLAN**

Ordinance #60-07 required development plan approval by the planning commission prior to the issuance of any building permits for additions or new development on this site. The proposed development will allow a 24' x 26' metal canopy to be installed to cover the ambulances and protect them from weather. The improvements will also include the installation of a 6' high wood privacy fence installed at the rear of the property to screen adjacent residential. The screening fence is also a requirement of Ordinance #60-07.

**STAFF COMMENTS:**

Staff recommends approval of the application with the following comments:

1. All construction must be built in accordance with the submitted Development Plan.

LB

2. The canopy shall not be built over any easements.
3. Any existing and future trash receptacles on site shall be completely screened.
4. All exterior lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow.
5. All new signs will require a separate plan review and building permit.

ORDINANCE NO. 60-07

AN ORDINANCE REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 16-8-07 to rezone certain properties hereinafter described, and, having considered said request, recommended on August 14, 2007, that said change be made;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS:

SECTION 1: That the following property to-wit:

- Lots 1, 2, 3, 4, 5, 6, Block 2, Pelly Addition
- Lots 1, 2, 3, 4, 5, 6, Block 1, Pelly Addition

more commonly known as 1601-1719 South Greenwood Avenue, should be, and is hereby rezoned from Transitional-3 and Residential-3-Single-Family-Duplex to Commercial-2 by Extension, subject to the following:

- Site/development plan approval by the Planning Commission for any additions or new development prior to the issuance of any building permit.
- Business signs shall be limited to monument configuration and wall configuration only.
- No drive-through service allowed.
- Screen fencing along alley frontage and rear property lines adjacent to residential development prior to any additions or new development.

The zoning map of the City of Fort Smith Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS 4<sup>th</sup> DAY OF SEPTEMBER, 2007.

APPROVED:

*[Signature]*  
 Mayor Vice Mayor

ATTEST:

*[Signature]*  
 City Clerk

Approved. arts form  
*[Signature]*  
 Publish time

**DEVELOPMENT PLAN REVIEW APPLICATION**

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

Block 2, Pelly Subdivision, Lots 1, 2 & 3

2. Address of property: 1701 South Greenwood Avenue

3. The above described property is now zoned: C-2-SPL

4. Does the development plan include a companion rezoning request?

Yes \_\_\_\_\_ No X

5. If yes, please specify the companion application submitted:

- Conventional Rezoning
- Planned Rezoning
- Conditional Use
- Master Land Use Plan Amendment
- Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:

\_\_\_\_\_ by \_\_\_\_\_.  
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

North - C-2-SPL, R-3-SF-DP, C-2, C-1, R-3-MF

East - R-3-MF, R-3-SF-DP      West - R-3-MF, C-2

South - T-2-SPL, R-3-MF

8. Total acreage of property \_\_\_\_\_

6E

Signed:

Lorrie Runion  
Owner or Agent Name  
*(please print)*

\_\_\_\_\_  
Owner

PO Box 23396, Baring, AR 72923  
Owner or Agent Mailing Address

or  
  
Agent

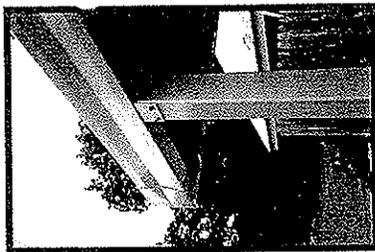
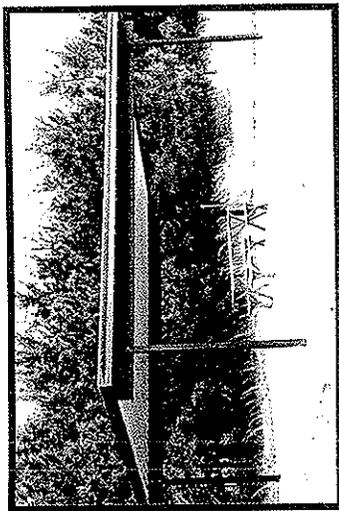
479-452-2971  
Owner or Agent Phone Number

6F



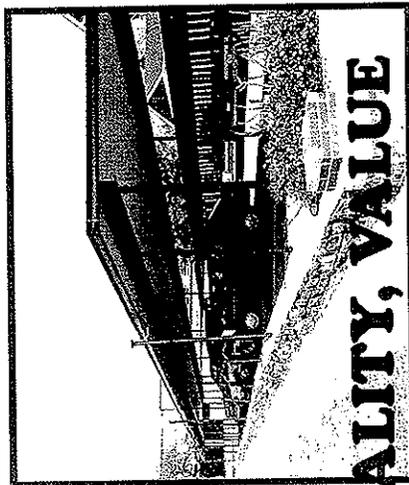
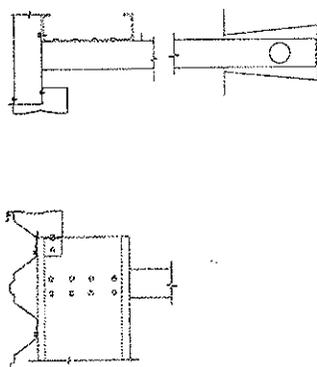


Canopy components are produced to exacting engineering and quality control standards. Precision fabricated fascia, panels and corners assure perfect-fit interlocking assembly.



Mason canopies are fully engineered to comply with all building codes

W-PAN TO C-BEAM TO POST



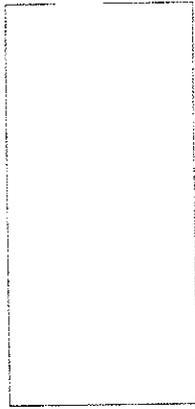
**SERVICE, QUALITY, VALUE**

PI-20PATCAR 35M4/98

Charter Member:



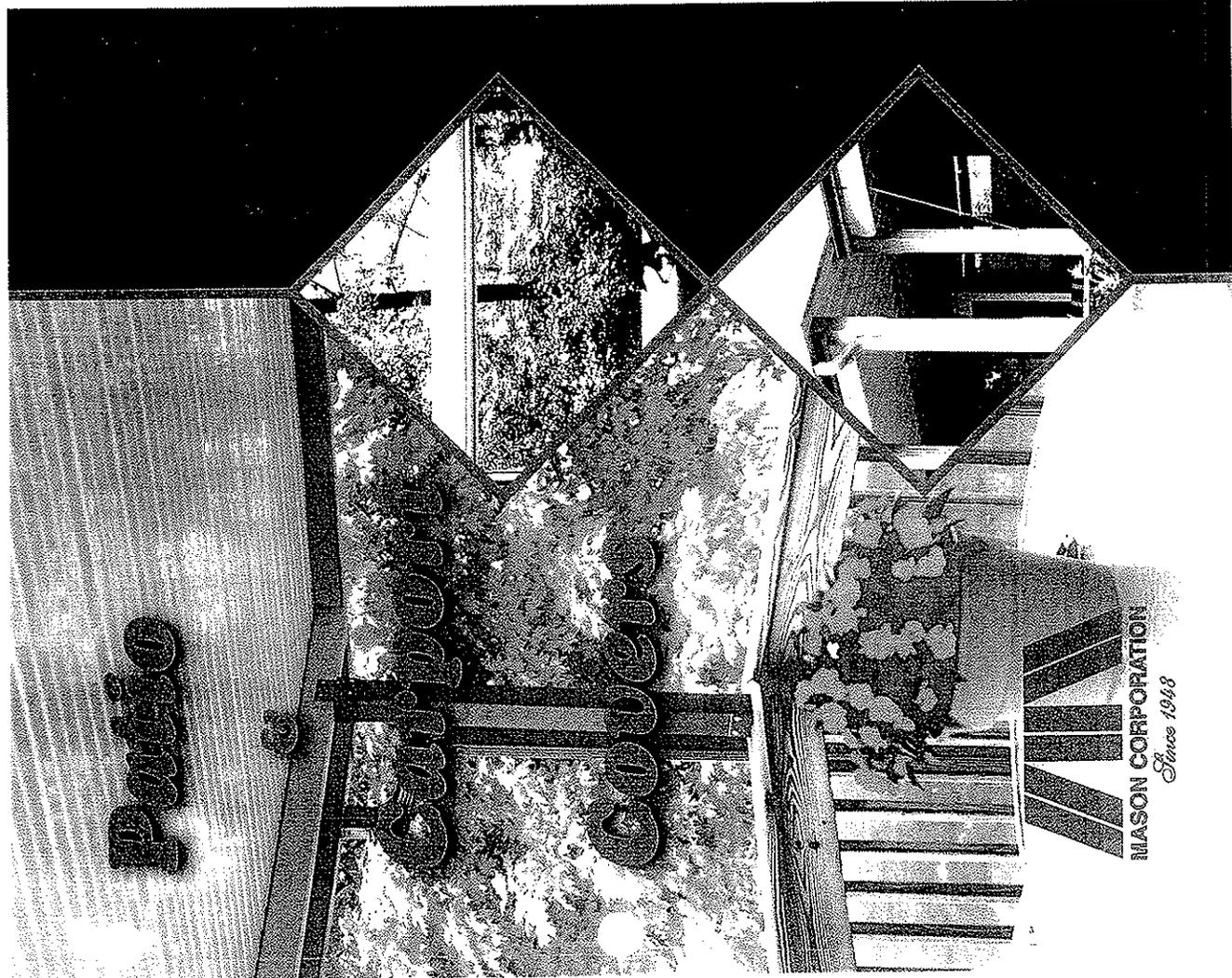
AUTHORIZED DEALER



Member:  
 Better Business Bureau  
 United States Chamber of Commerce  
 National Sunroom Association  
 American Architectural Manufacturers Association



67



**MASON CORPORATION**  
*Since 1968*

# Add beautiful space for outdoor entertaining...

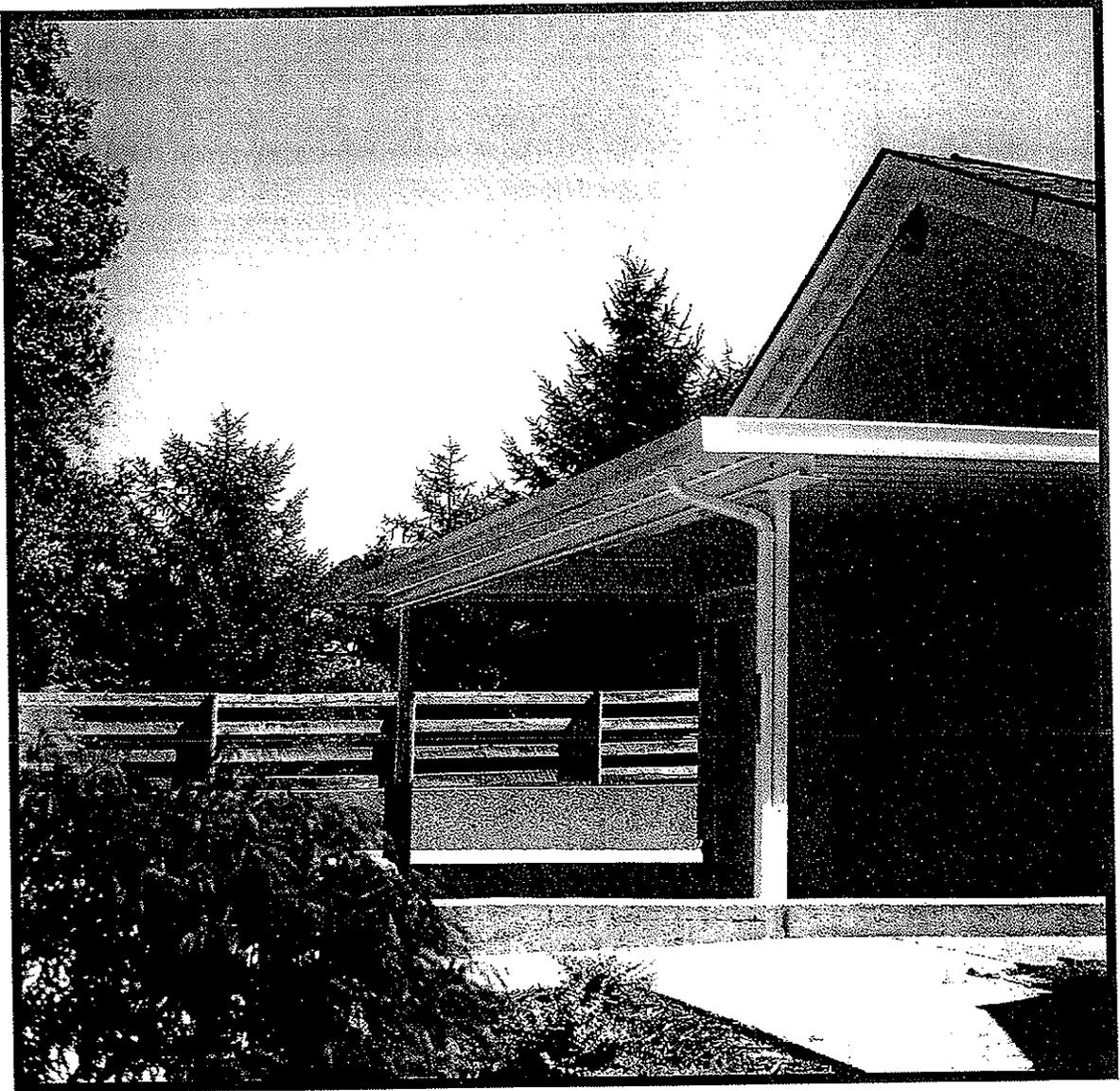
All roof components are made from aluminum or steel in the exact size you need. They're safe, weather-tight, and feature baked-on acrylic finish which requires little maintenance. Many samples provide...

**Fascia Colors:**  
 White, Clay, Black Ivory,  
 Colonial Gray, Colonial Blue,  
 Dark Bronze, and Brown

Choose a free-standing unit, 2, 3, or 4 beam unit, or a custom designed unit. Whatever size you choose, you are always sure of quality.

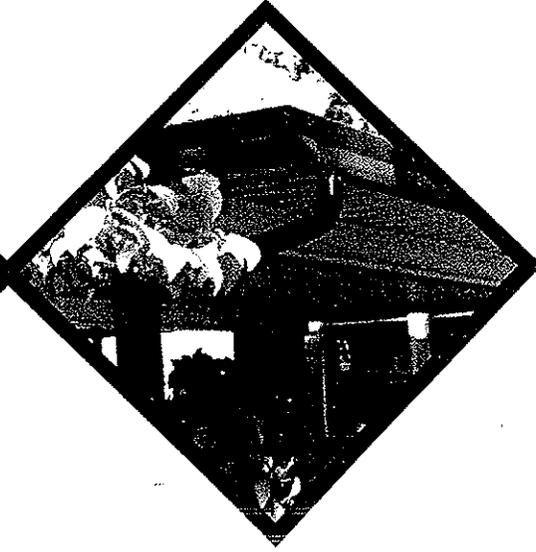
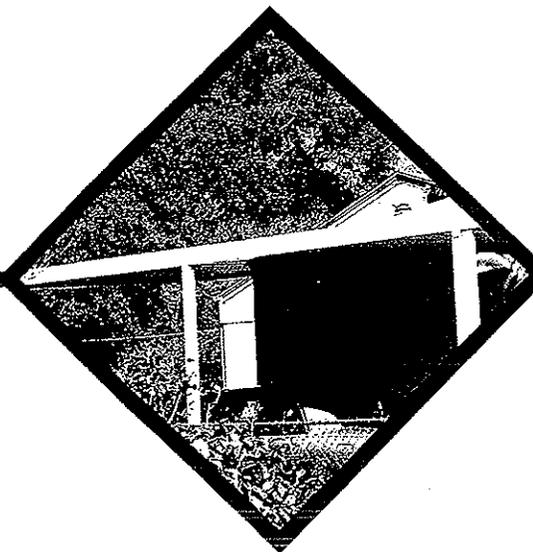
Skylights provide additional light

65



**Benefits:**

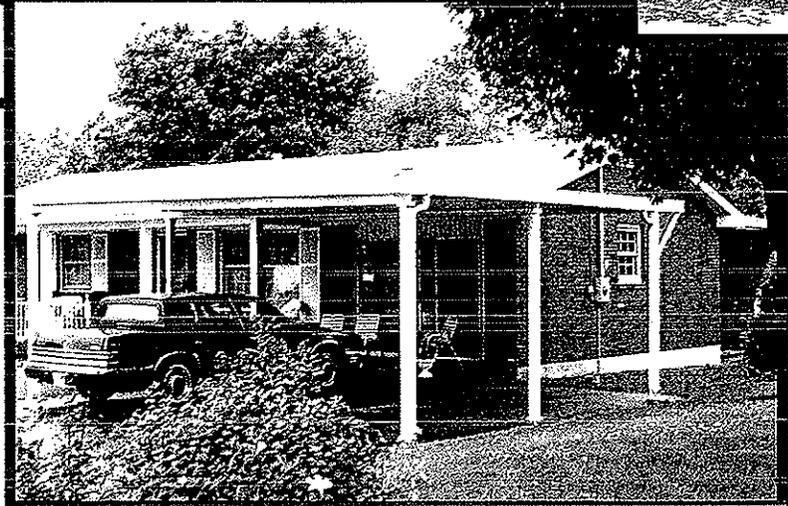
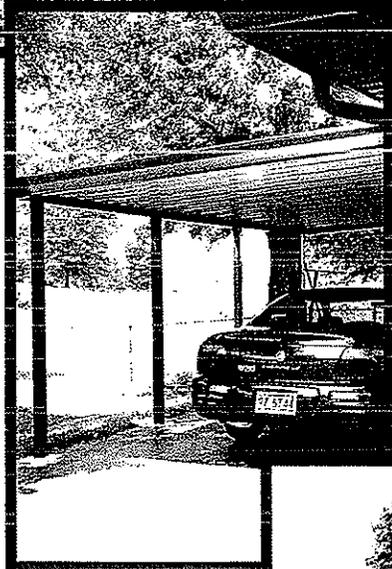
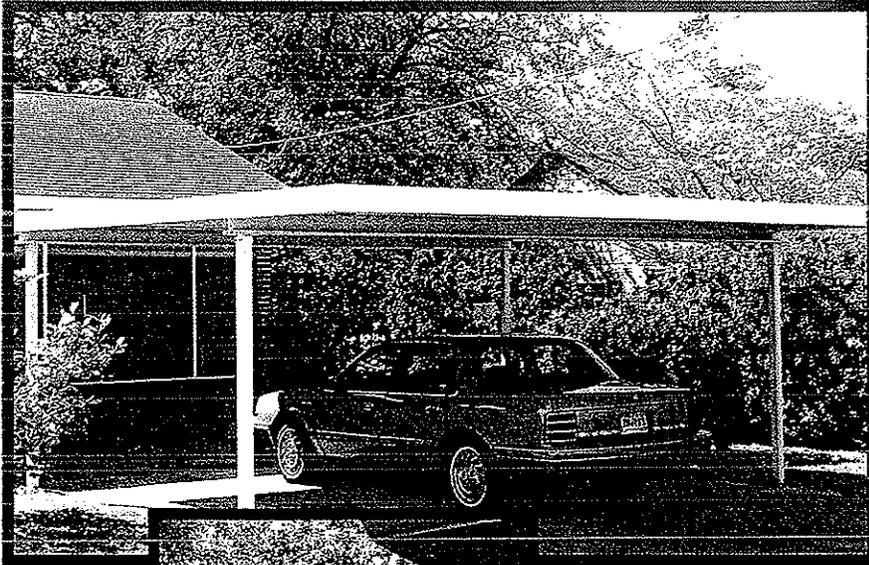
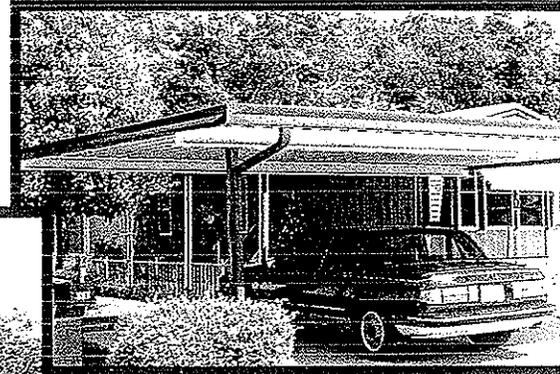
**Versatility • Low-maintenance • Quality materials**  
**Standard or Custom Units • Wind and Snow Load Engineering**



6K

# Preserve your investment . . . .

Provide shelter from rain, hail, snow and blistering heat. Year 'round protection is available at a reasonable cost to you. Covers are custom fabricated and installed to suit your needs, at a price to fit your budget.



66

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 24, 2013

**Re:** Conditional Use #16-7-13 - A request by Tim Risley, agent, for Planning Commission consideration of a Conditional Use request to develop a school addition at 2301 North "B" Street (Northside High School)

## LOT LOCATION AND SIZE

The proposed addition will be located on the Fine Arts Building, east of the football field and west of the Activity Center. The Fine Arts Building is located at the intersection of north 25<sup>th</sup> Street and North "C" Street.

## EXISTING ZONING

The existing zoning on this tract is Residential Multifamily High Density (RM-4). Characteristics of this zone are as follows:

### Purpose:

To provide high density attached homes, including multi-story residential buildings in those areas where such building types already exist, or where such buildings would be consistent with an area's established development pattern and character. The RM-4 zoning district is appropriate in urban areas in the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial categories of the Master Land Use Plan.

### Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

### Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 5,000 square feet	Maximum Height - 40 feet (1+1)
Maximum Density – 30 Dwelling Units/Acre	Maximum Lot Coverage - 70%
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 5 feet	
Side/Rear adjacent to RS district/development – 40 feet	
Minimum building separation – 10 feet	

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Residential Multifamily High Density (RM-4) and are developed as parking for the school and single family residences.

The areas to the east are zoned Residential Multifamily High Density (RM-4) and are developed as single family residences and also zoned Commercial Light (C-2) and are developed as retail shops and a restaurant.

The areas to the south are zoned Commercial Light (C-2) and are developed as retail shops and offices.

The areas to the west are zoned Residential Multifamily High Density (RM-4) and are developed as single family residence and vacant lots and also zoned Commercial Light (C-2) and are developed as apartments and retail.

**PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

**CONDITIONS FOR A CONDITIONAL USE**

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

7B

## LAND USE PLAN COMPLIANCE

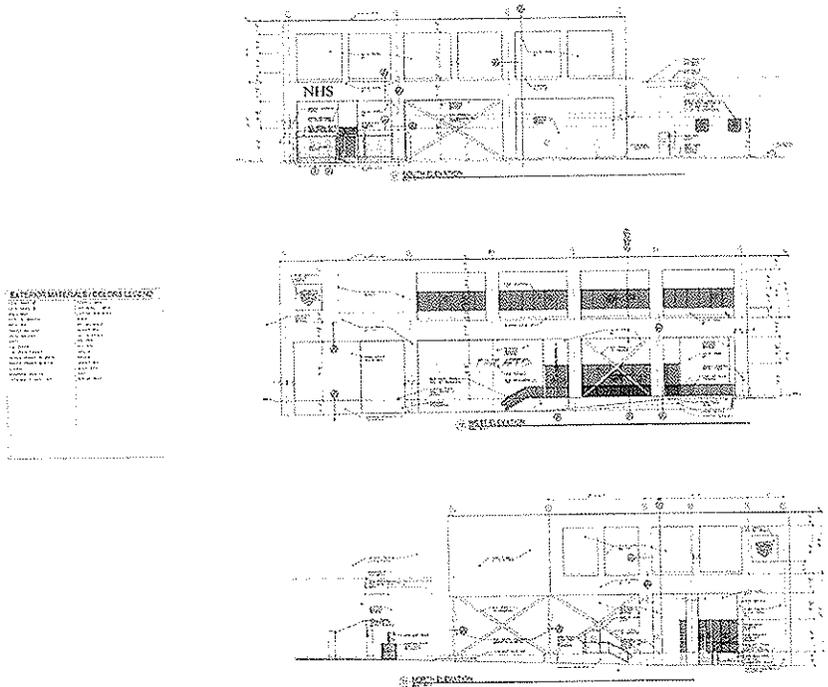
The *Unified Development Ordinance* currently classifies the site as Public/Institutional. This classification is intended to provide for needed community services of both a public and quasi-public nature. Approval of the Conditional Use will not conflict with the goals and objectives of the Unified Development Ordinance.

## PROPOSED CONDITIONAL USE

Planning Commission approval of the application will facilitate a fine arts building addition for Northside High School. This addition will be located above the existing fine arts building.

## SITE DESIGN FEATURES

**Architectural features** – The addition will span across the top of the existing brick building. The addition will have an aluminum metal panel used as the exterior wall covering. There will be two stair towers located on opposite sides of the building.



## STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Tuesday, June 25, 2013 at 2301 North "B Street. Four neighboring property owners were in attendance at the neighborhood meeting. There were no objections to the proposed project or explain the objections. A copy of the attendance record and meeting summary are enclosed.

We recommend approval of the application with the following conditions:

1. All construction must be built in accordance with the submitted development plan.
2. No certified survey submitted for review at this time. Be advised that a certified survey will be required at the time of building permit submittal.
3. All mechanical equipment, heating/cooling systems, trash receptacles and utility boxes shall be completely screened from adjoining properties and street right-of-ways. This will be verified during the building permit plan review.
4. All exterior lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow. This will be verified during the building permit plan review.
5. All new signs will require a separate plan review and building permit.

Conditional Use # 16-7-13

**APPLICATION FOR CONDITIONAL USE**

Name of Property Owner: Fort Smith School District

Name of Authorized Agent (if applicable) Tim A. Risley

Legal Description of property included in the conditional use request:

Lots 1-5 of Block 3, Aldridge Addition (Revised Plat), Fort Smith,  
Arkansas, Sebastian County

Street Address of Property:

2301 North "B" Street

Existing Zoning Classification:

RM-4

Proposed Zoning Classification (if applicable):

\_\_\_\_\_

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

Second Story addition to the existing Fine Arts Building

\_\_\_\_\_

What amenities are proposed such as landscaping and screening?

None

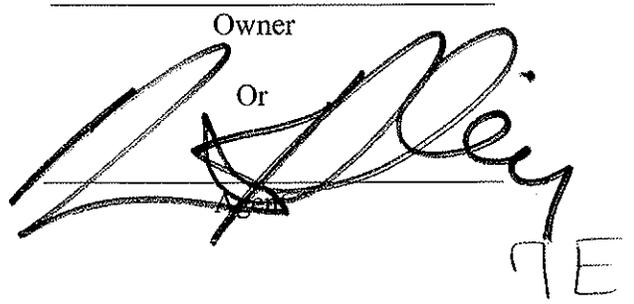
\_\_\_\_\_

Tim A. Risley  
Owner or Agent Name (please print)

6101 Phoenix Ave Fort SMith, AR 72903  
Owner or Agent Mailing Address

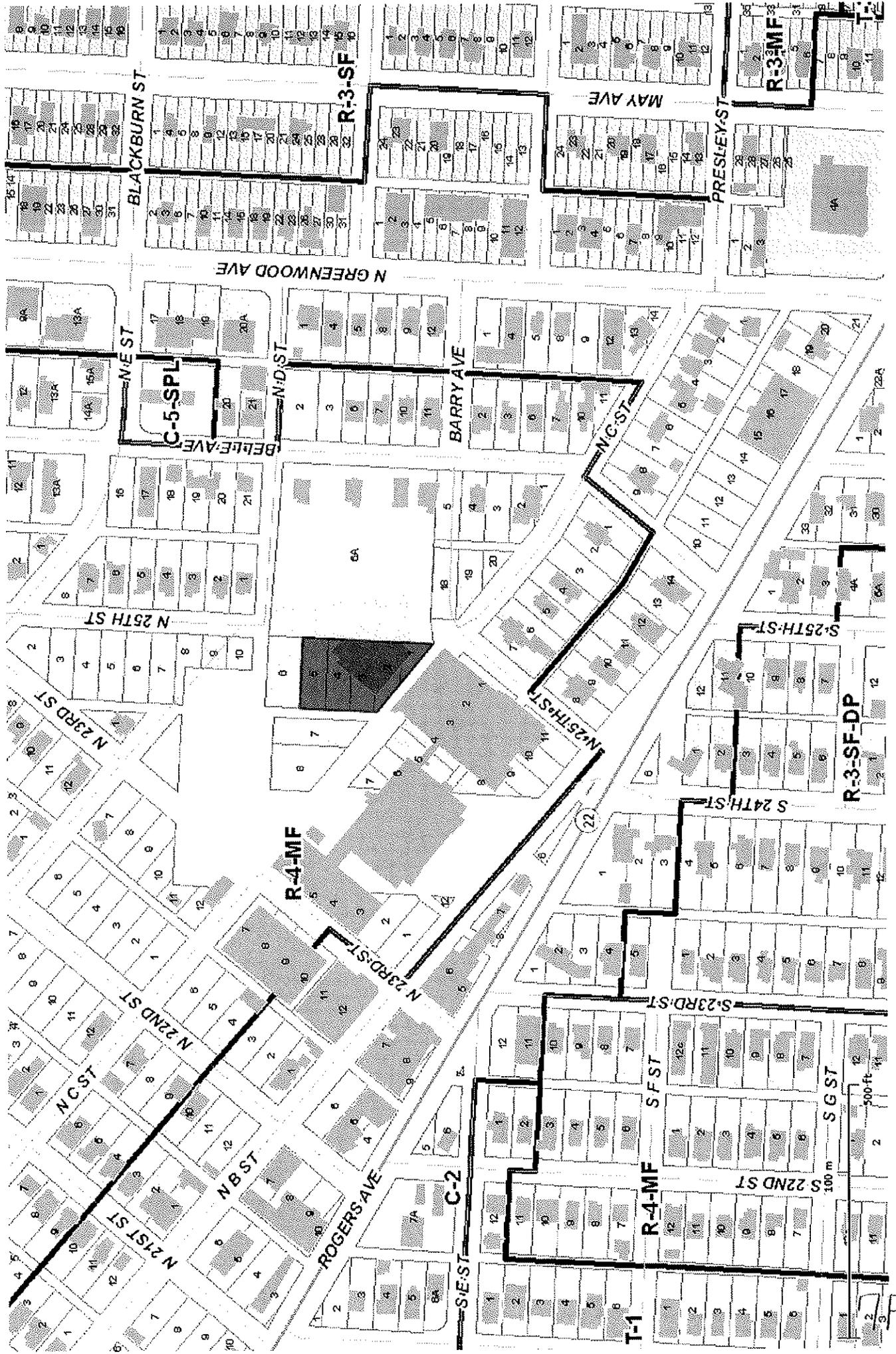
479-452-2636  
Owner or Agent Phone Number

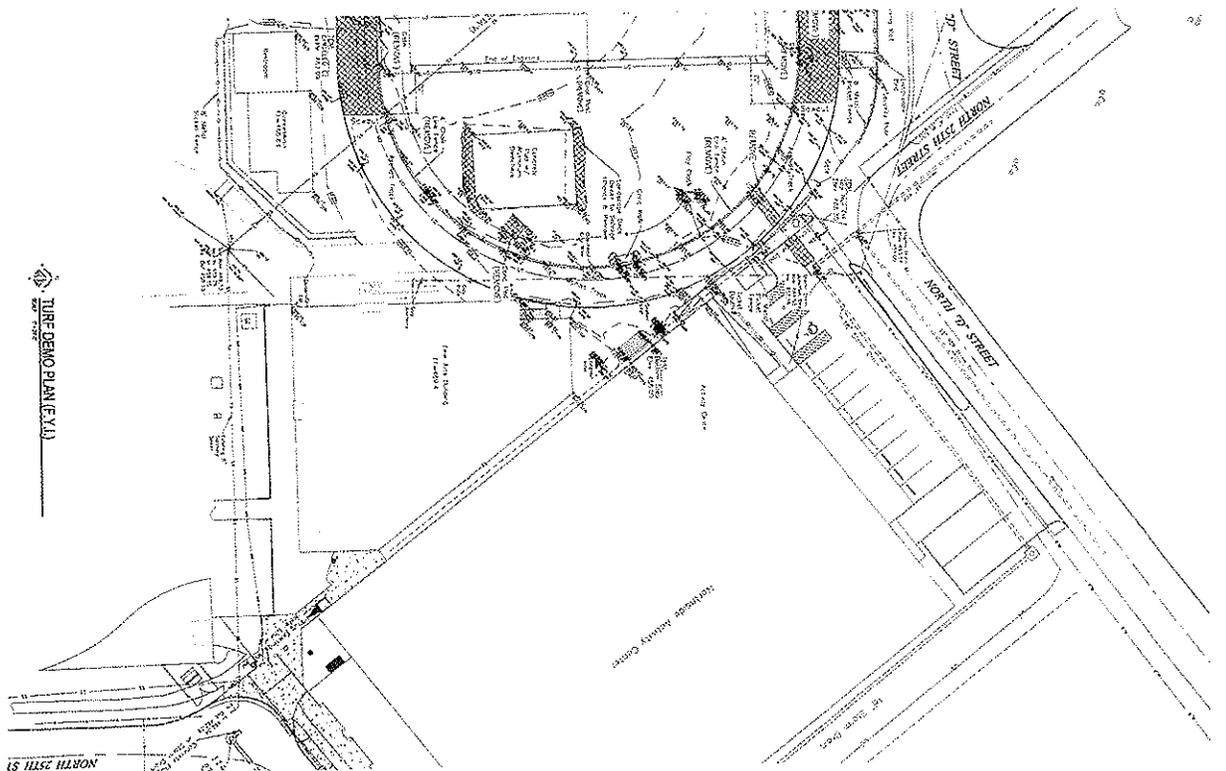
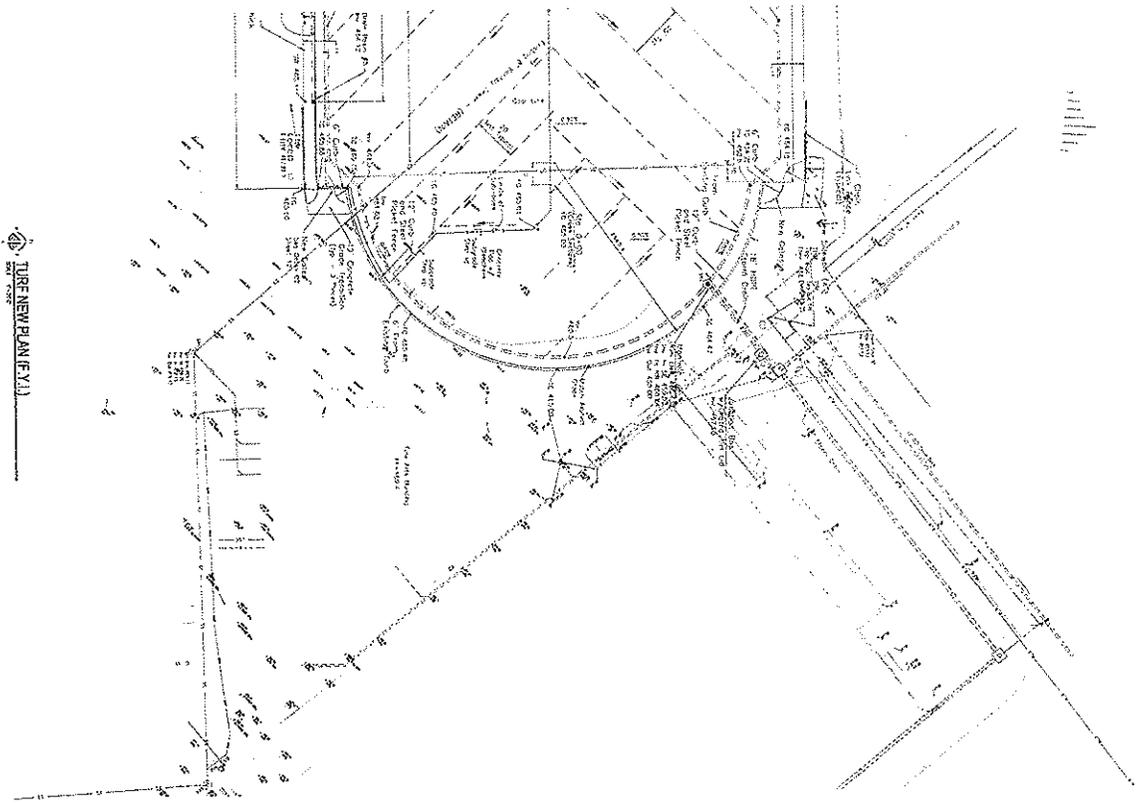
Signed:

Owner  
Or  
  
TE

# Conditional Use #16-7-13: Second Story School Addition

2301 North "B" Street





T2

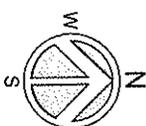


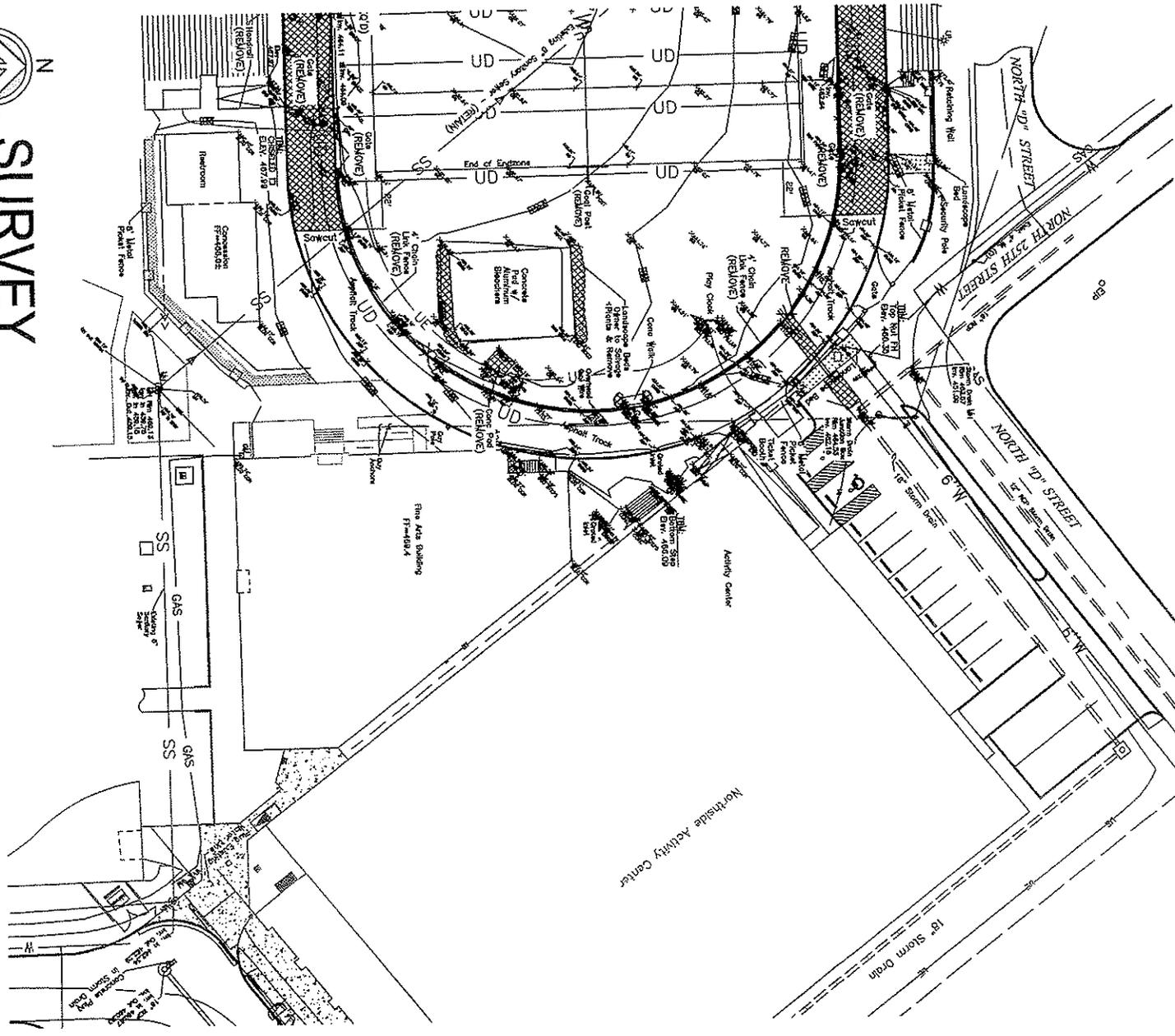
**N.H.S. FINE ARTS EXPANSION**  
 FORT SMITH, ARKANSAS

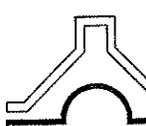
**TIM A. RISLEY & ASSOCIATES**  
 ARCHITECTS AND PLANNERS  
 211 CONWARD PLACE • 6801 PROSPERITY • FORT SMITH, ARKANSAS • 72303  
 PHONE: 479.852.2554 • FAX: 479.852.2555 • EMAIL: info@timrisley.com



76


  
**SURVEY**
  
 SCALE: 1" = 60'-0"




**TIM A. RISLEY & ASSOCIATES**  
**ARCHITECTS AND PLANNERS**

---

#1 CON/ARC PLACE • 6101 PHOENIX • FORT SMITH, ARKANSAS - 72903  
 PHONE - 479.452.2636 • FAX - 479.452.3925 • EMAIL - info@risley-associates.com

**NORTHSIDE HIGH SCHOOL**  
**FINE ARTS EXPANSION**

Title Fort Smith, Arkansas

Drawn By P. Bell

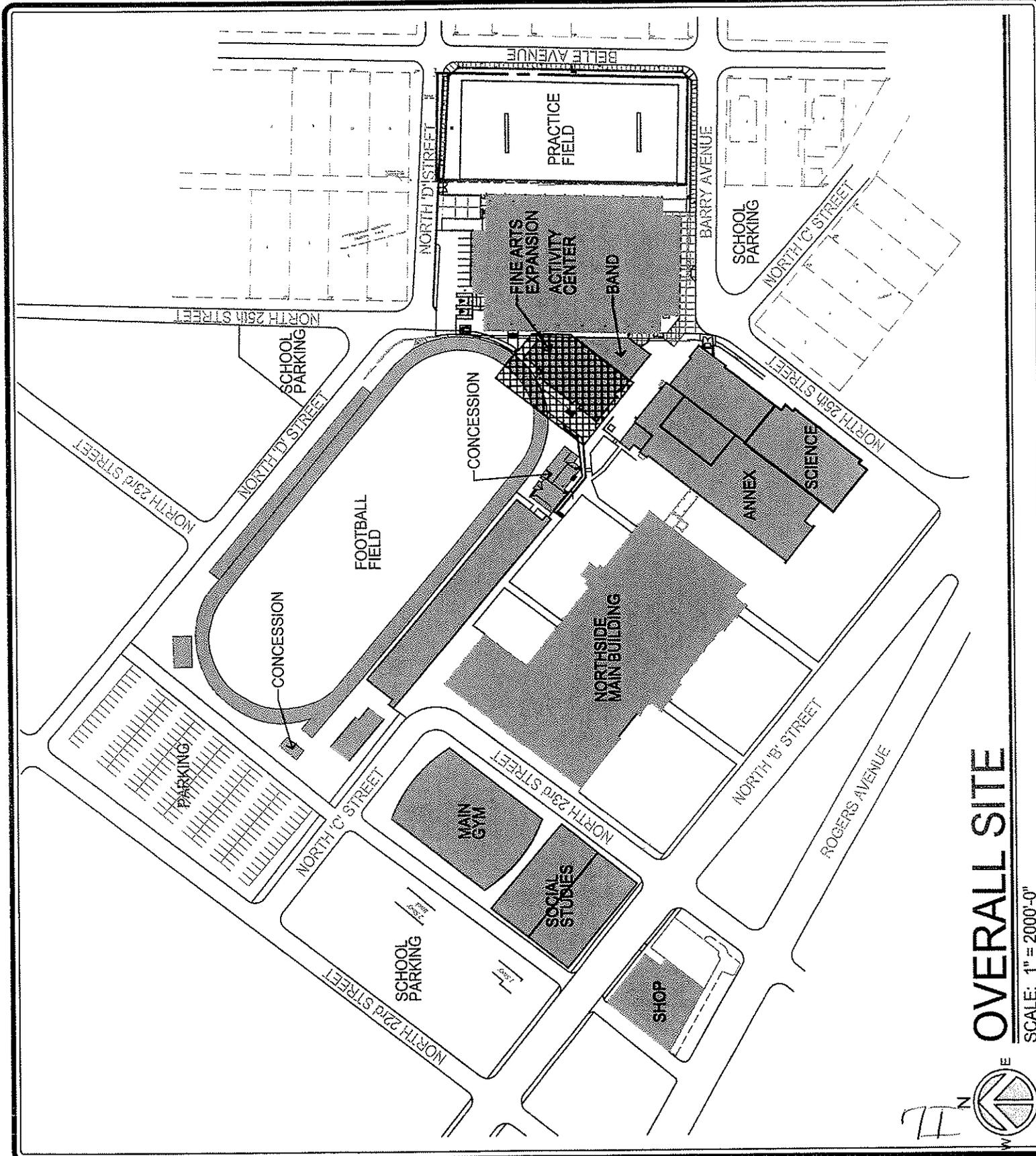
29 May 2013 Date	<b>T2</b>
12-33 Project	
Supplemental Drawing	

TH

<h1 style="font-size: 48px; margin: 0;">C1</h1>	Supplemental Drawing
	Project 12-33
Date May 29 2013	

<h2 style="margin: 0;">NORTHSIDE HIGH SCHOOL FINE ARTS EXPANSION</h2>	Title Fort Smith, Arkansas
	Drawn By P. Bell

<h2 style="margin: 0;">TIM A. RISLEY &amp; ASSOCIATES ARCHITECTS AND PLANNERS</h2>	#1 CON/ARC PLACE • 6101 PHOENIX • FAX - 479.452.2636 • PHONE - 479.452.2636 • EMAIL - info@risley-associates.com • FORT SMITH, ARKANSAS - 72903
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**OVERALL SITE**

SCALE: 1" = 2000'-0"



TIM A. RISLEY & ASSOCIATES  
ARCHITECTS AND PLANNERS  
1100 PINE BLVD. - SUITE 200 - FORT SMITH, ARKANSAS 72533  
PH: (501) 783-1234 FAX: (501) 783-1235

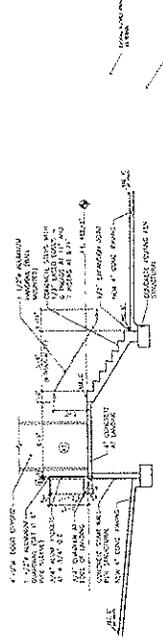
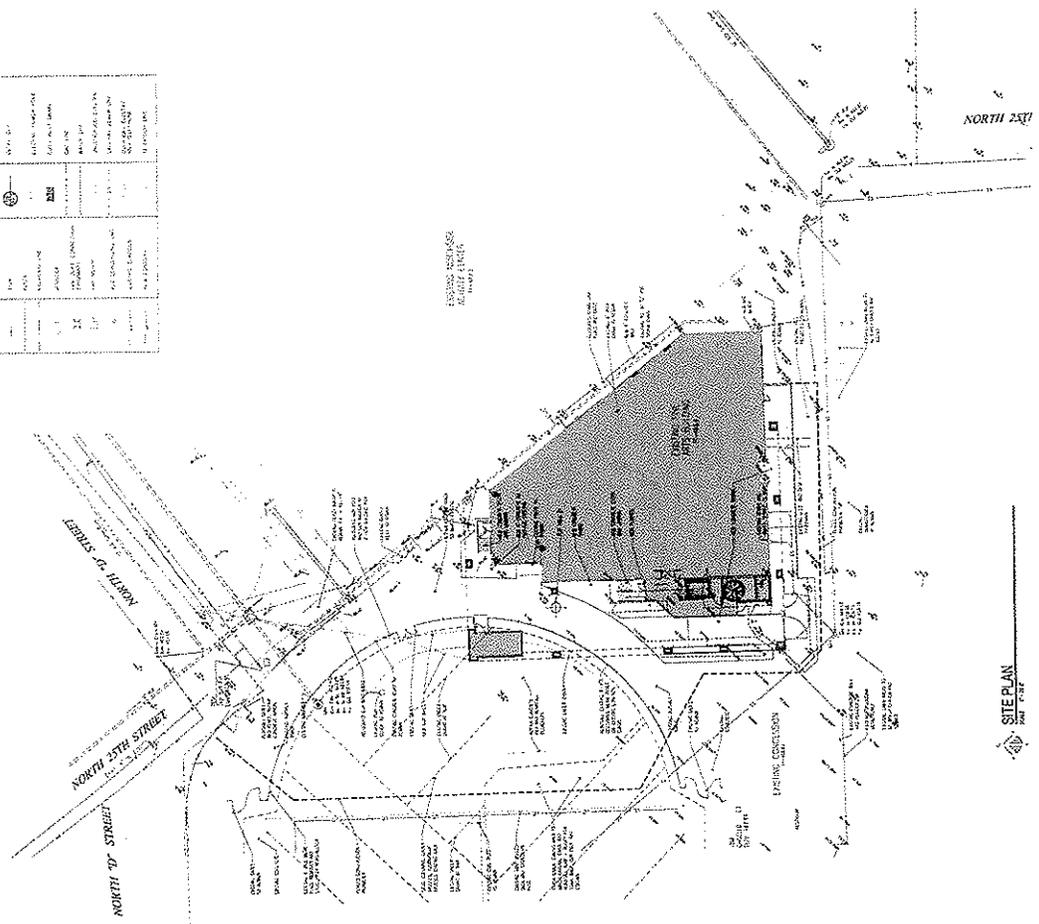
# N.H.S. FINE ARTS EXPANSION

FORT SMITH, ARKANSAS

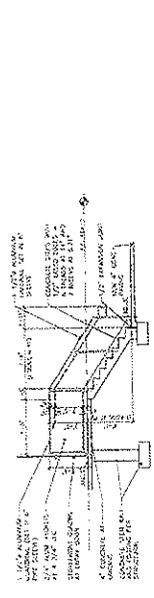
DATE: 11/15/11  
SCALE: AS SHOWN  
SHEET: A1

**SITE PLAN LEGEND**

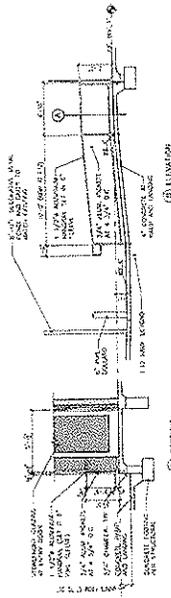
EXISTING BUILDING	NEW CONSTRUCTION	EXISTING DRIVEWAY	NEW DRIVEWAY
EXISTING SIDEWALK	NEW SIDEWALK	EXISTING CURB	NEW CURB
EXISTING FENCE	NEW FENCE	EXISTING UTILITY	NEW UTILITY
EXISTING LANDSCAPE	NEW LANDSCAPE	EXISTING TREE	NEW TREE
EXISTING LIGHTING	NEW LIGHTING	EXISTING SIGN	NEW SIGN
EXISTING PAVEMENT	NEW PAVEMENT	EXISTING DRIVE	NEW DRIVE
EXISTING SIDEWALK	NEW SIDEWALK	EXISTING DRIVEWAY	NEW DRIVEWAY
EXISTING FENCE	NEW FENCE	EXISTING UTILITY	NEW UTILITY
EXISTING LANDSCAPE	NEW LANDSCAPE	EXISTING TREE	NEW TREE
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EXISTING PAVEMENT	NEW PAVEMENT	EXISTING DRIVE	NEW DRIVE



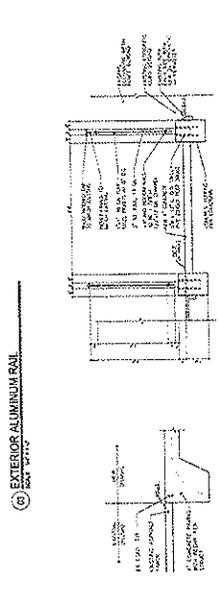
1) CONCRETE STEPS @ NORTH SIDE ENTRY



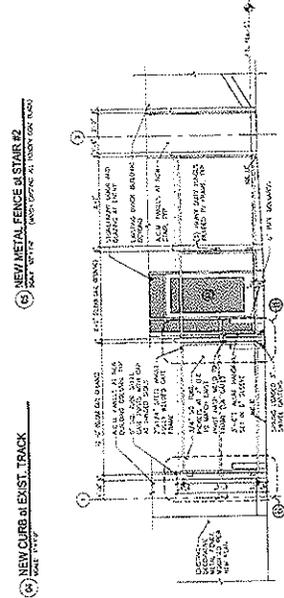
2) CONCRETE STEPS @ ENTRY



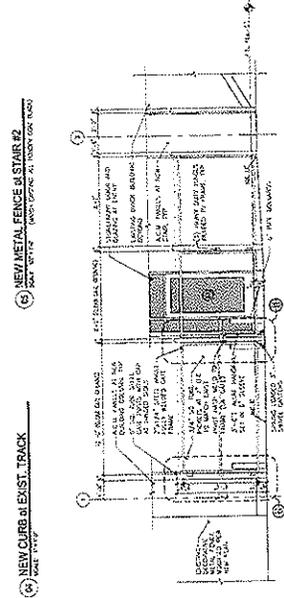
3) CONCRETE STEPS @ ENTRY



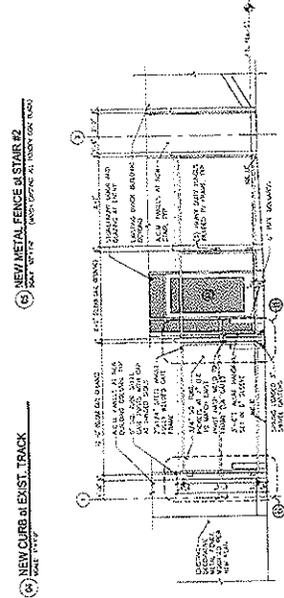
4) EXTERIOR ALUMINUM RAIL



5) NEW METAL FENCE @ STAR #2



6) NEW CURB @ EXIST. TRACK

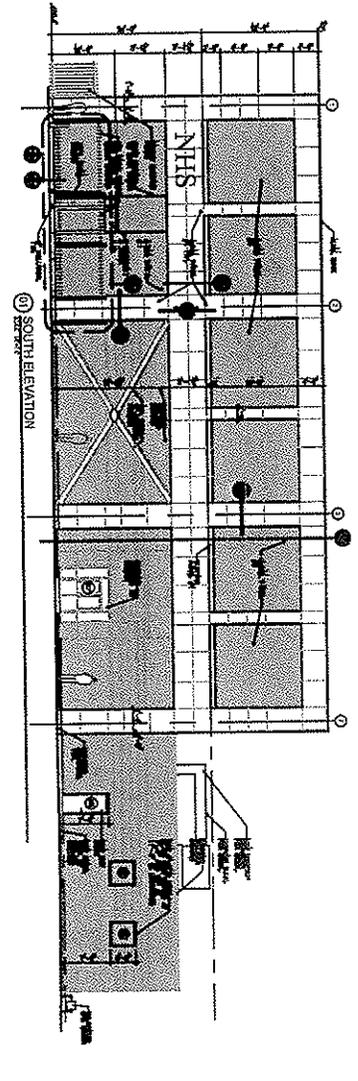
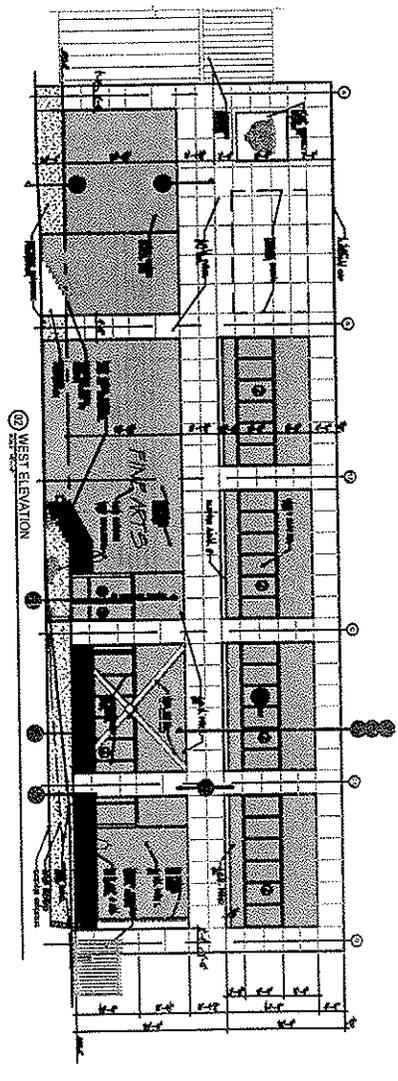
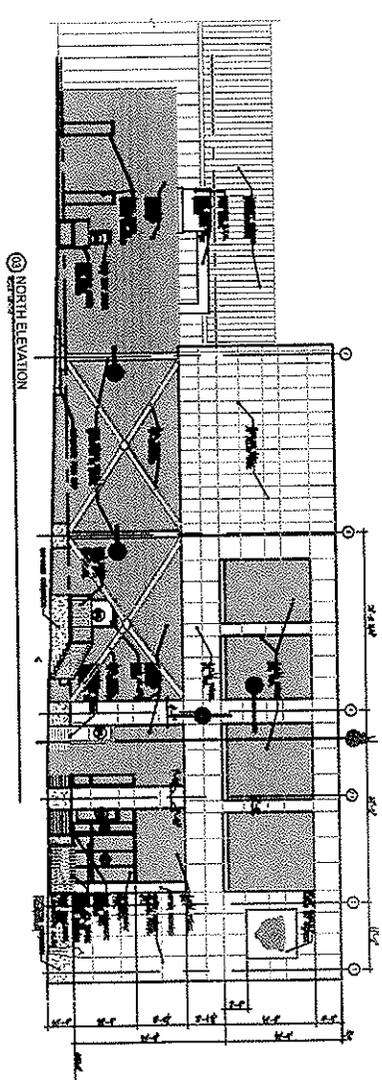


7) NEW DECORATIVE METAL FENCE @ ENTRY

PL

**EXTERIOR MATERIALS / COLORS LEGEND:**

NO.	DESCRIPTION	COLOR
1	CONCRETE	GRAY
2	BRICK	REDFIELD
3	CLAY TILE	CLAY
4	GLAZED TERRAZZO	CLAY
5	GLAZED TERRAZZO	CLAY
6	GLAZED TERRAZZO	CLAY
7	GLAZED TERRAZZO	CLAY
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99	GLAZED TERRAZZO	CLAY
100	GLAZED TERRAZZO	CLAY



**TIM A. RISLEY & ASSOCIATES**  
ARCHITECTS AND PLANNERS

#1 CON/ARC PLACE • 6101 PHOENIX • FORT SMITH, ARKANSAS - 72903  
PHONE - 479.452.2636 • FAX - 479.452.3925 • EMAIL - info@risley-associates.com

**NORTHSIDE HIGH SCHOOL**  
FINE ARTS EXPANSION

Title Fort Smith, Arkansas

Drawn By P. Bell

29  
May  
2013  
Date

12-33  
Project

**A10**  
Supplemental Drawing

TK



ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 2391 N. "B"

Meeting Time & Date 2:00 6/25/13

Meeting Purpose CONDITIONAL Use

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>TOM MONACO</u>	<u>CITY</u>	<u>784-7278</u>
2.	<u>ERIC THOMPSON</u>	<u>222 N 21st</u>	<u>883-8102</u>
3.	<u>Fred Baker</u>	<u>117 Belle</u>	<u>783-0027</u>
4.	<u>Wes Rayson</u>	<u>213 N 22nd St.</u>	<u>709-9061</u>
5.	<u>BRETT ABBOTT</u>	<u>RISLEY'S OFFICE</u>	<u>452-2636</u>
6.	<u>Martha Chatman</u>	<u>211 N. 22nd</u>	<u>739-2024</u>
7.			
8.			
9.			
10.			
11.			

TM

## Monaco, Tom

---

**From:** Brett Abbott [babbott@risley-associates.com]  
**Sent:** Thursday, June 27, 2013 8:27 AM  
**To:** Monaco, Tom  
**Subject:** RE: NHS Band

Tom,

Below are the minutes from the Neighborhood meeting held on Tuesday, June 25<sup>th</sup> at 2:00 at Northside.

In attendance:

Tom Monaco – City of Fort Smith  
Brett Abbott – Tim A. Risley and Associates  
Eric Thompson  
Fred Baker  
Wes RaySarn  
Martha Chatman

I explained to those in attendance what the building would look like and where it would be situated.

Questions posed:

- 1.) What is metal panel and what does it look like?
- 2.) Are we getting tornado shelters?
- 3.) What do the elevations look like?

I think that was about it.

THX.

### **Brett Abbott, AIA**

Tim A. Risley & Associates | Architects & Planners  
6101 S. Phoenix - #1 Con/Arc Place  
Fort Smith, AR 72903  
p: 479-452-2636  
f: 479-452-3925

please consider the environment before printing this email

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 25<sup>th</sup>, 2013

**Re:** Conditional Use #17-7-13 - A request by Ronnie Hart, agent for NF Holdings, Inc. and Minish Limited Partners, for Planning Commission consideration of a Conditional Use request to develop a drive-thru at 2917 South 74<sup>th</sup> Street (Companion to item # 15)

## LOT LOCATION AND SIZE

The subject property is on the east side of South 74<sup>th</sup> Street between Rogers Avenue and Dallas Street. The tract contains an area of 1.07 acres with approximately 237 feet of street frontage along South 74<sup>th</sup> Street.

## EXISTING ZONING

The existing zoning on this tract is Commercial Light (C-2) and Commercial Heavy (C-5). The characteristics of each zone are as follows.

Commercial Light (C-2).

Characteristics of this zone are as follows:

### Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

**Permitted Uses:**

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 7,000 square feet (1+1) Maximum Height - 35 feet

Maximum Building Size – 30,000 square feet Maximum Lot Coverage - 60%

Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet

Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)

Minimum Lot Width – 50 feet

Minimum Street Frontage – 20 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 10 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Collector or higher

Commercial Heavy (C-5).

Characteristics of this zone are as follows:

**Purpose:**

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

**Permitted Uses:**

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet (1+1) Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 20 feet

Rear Yard Setback - 20 feet

Side/Rear (adjoining SF Residential District/Development) – 30 feet

Minimum building separation – to be determined by current City building and fire code.

Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Commercial Light (C-2) and is developed as a Dental Office.

The area to the east are zoned Commercial Heavy (C-5) and are developed as a motel.

The area to the south is zoned Commercial Light (C-2) and is developed as a restaurant.

The area to the west is zoned Transitional (T) and is developed as Mercy hospital.

**PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

## CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

## LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the zone change will not conflict with the goals and objectives of the Master Land Use Plan. A companion variance application for the required drive aisle width and required passing lane for the drive-thru has been submitted.

## PROPOSED CONDITIONAL USE

The conditional use if approved will allow the development of a drive-thru for the existing Panera Bread restaurant.

## SITE DESIGN FEATURES

**Ingress/egress/traffic circulation** – The site layout for parking and traffic circulation will essentially have the same layout and design as the current parking with the exception of the new drive-thru lane. The ingress and egress will not change.

**Easement/utilities** – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City's Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

**Drainage** – No new drainage has been proposed. Any new drainage will follow the existing drainage that exits to the east of the property.

**Right-of-way dedication** – No new right-of-way dedication is required.

**Landscaping** – The current landscaping will continue to be maintained with no new changes. The current landscaping has interior landscape islands with some building landscape.

**Screening** – A fence screen will be installed on the north side of the drive lane for the drive-thru. The fence will continue to screen the entire drive land from the property to the north.

**Parking** – The site will have 56 parking spaces. This exceeds the required number of parking spaces outlined in the Unified Development Ordinance.

**Signage** – No additional advertising signage is proposed. A menu board for the drive-thru will be installed to the east side of the building.

**Lighting** – No new site lighting is proposed.

**Setbacks** – All of the setbacks conform to the zoning standards.

**Architectural features** – The architectural features conforms to the requirements outlined in the Unified Development Ordinance.

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held on Wednesday June 26<sup>th</sup>, 2013 onsite at 2917 South 74<sup>th</sup> Street. Three people were present at the neighborhood meeting. The north property owner had no objections to the drive-thru contingent upon the installation of a screened fence, and as long as the property owner's trees were to remain intact. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application or for the reasons stated in the staff report and contingent upon the following.

1. Approval of the companion variances for the width of the drive aisle and the elimination of the passing lane.
2. All construction must be built in accordance with the submitted development plan.
3. Approval of the companion variance application.
4. All construction must be built in accordance with the submitted Development Plan.
5. All exterior lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow. This will be verified during plan review.
6. All new signs will require a separate plan review and building permit.
7. The installation of the screen fence along the north property line.

Conditional Use # 17-7-13

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: Minish Properties Limited Partnership

Name of Authorized Agent (if applicable) Ronnie Hart

Legal Description of property included in the conditional use request:

Lot 4B of Subdivision SY Addition

Street Address of Property:

2917 S. 74th St.

Existing Zoning Classification: C2 and C5

Proposed Zoning Classification (if applicable):

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

Propose to add a drive thru use to a C-2 zone. Currently property is zoned C-5 and C-2.

What amenities are proposed such as landscaping and screening?

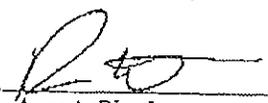
Landscaping will be provided along the new drive lane

Ronnie Hart  
Agent Name (please print)

1624 E. 15th St. Tulsa, OK 74120  
Agent Mailing Address

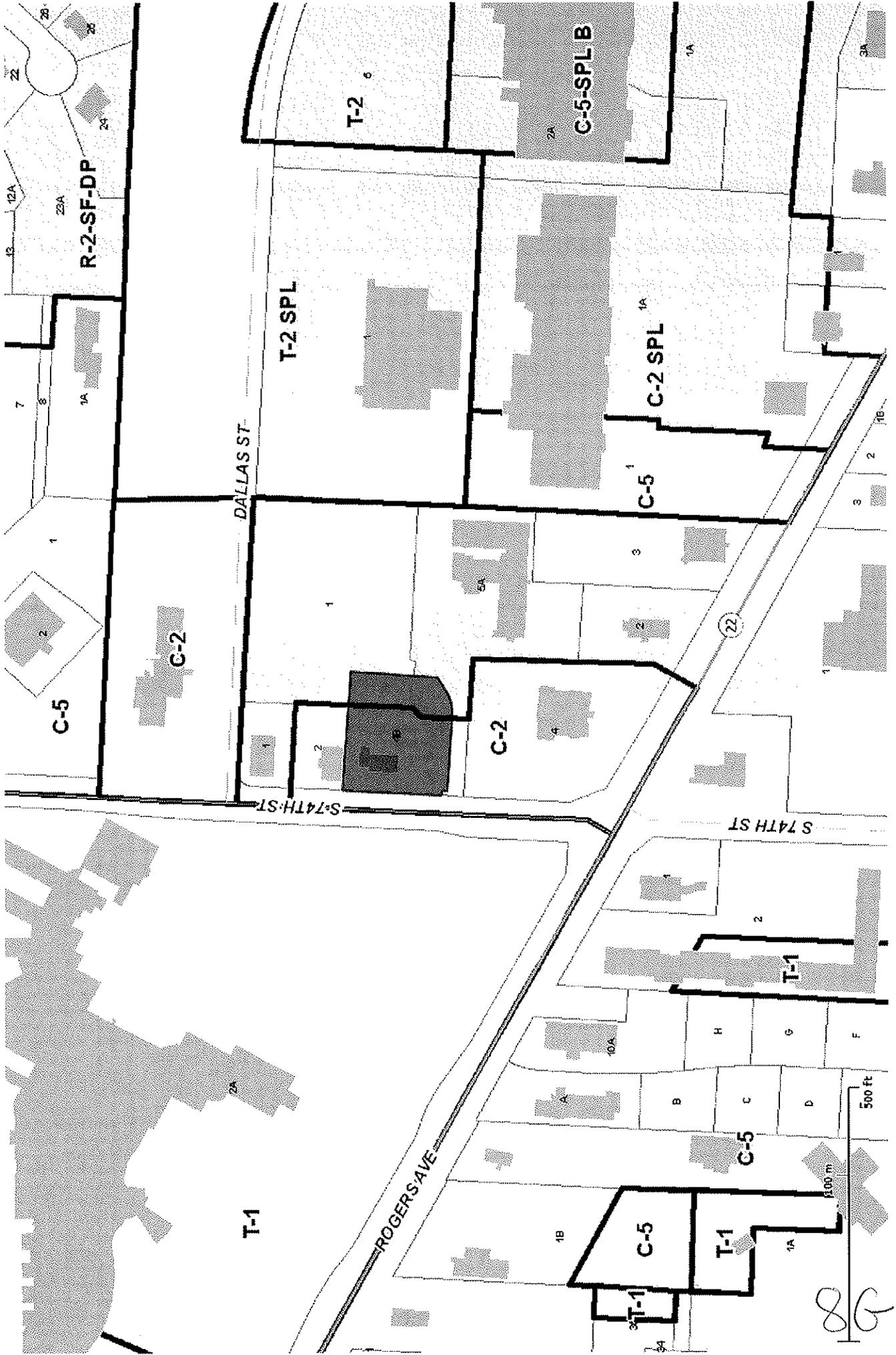
918-850-0755  
Agent Phone Number

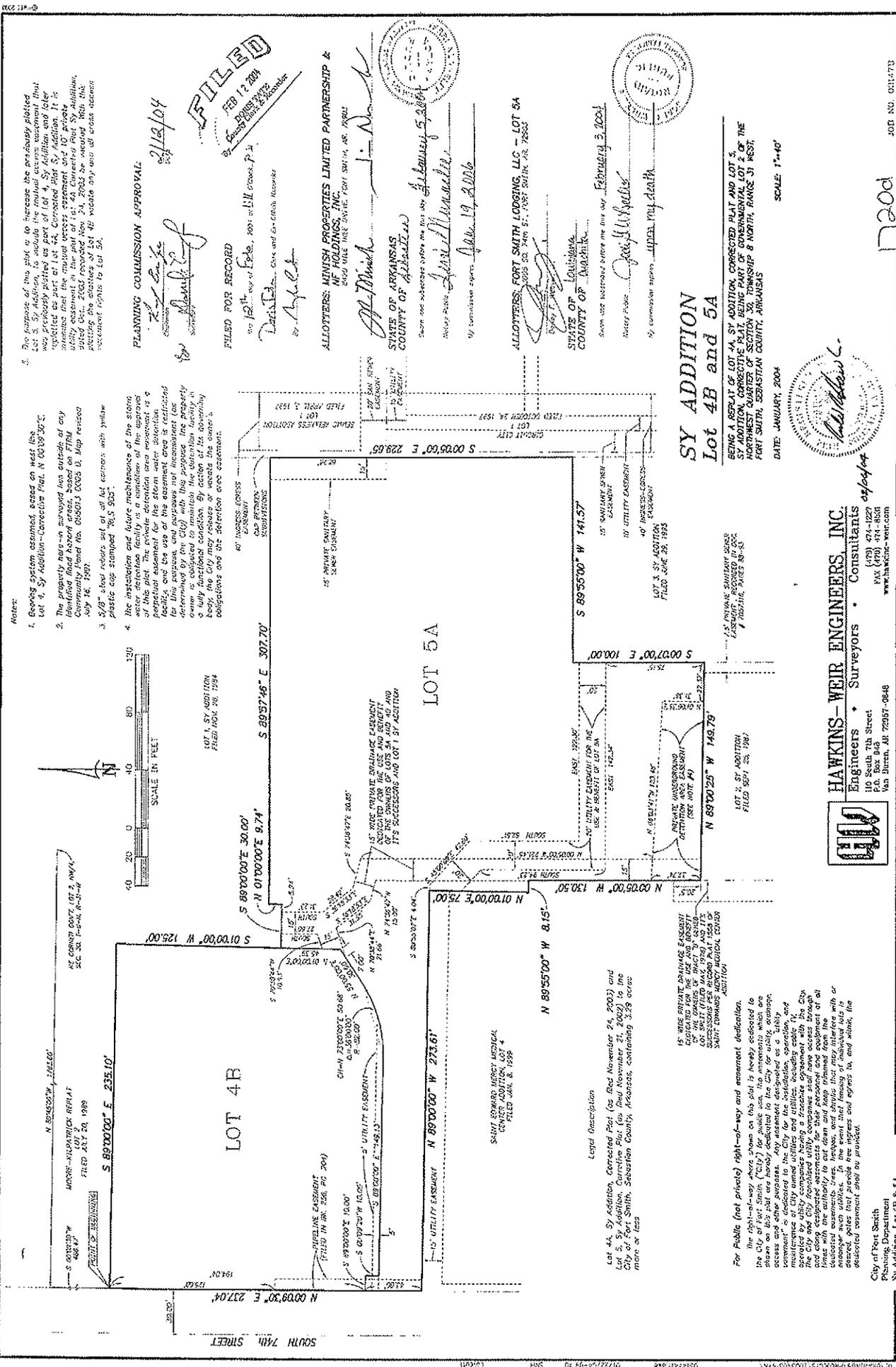
Signed:

  
Agent Signature

# Conditional Use #17-7-13: Restaurant with Drive-Thru

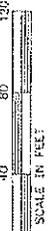
2917 South 74th Street





Notes:

1. Bearing system assumed, based on west line of Lot 5, Sy Addition-Corrective Plat, N 00°09'30\"/>



PLANNING COMMISSION APPROVAL  
 2/12/04  
 FILED  
 FEB 12 2004  
 CLERK OF COURTS  
 COUNTY OF ARKANSAS

FILED FOR RECORD  
 BY [Signature]  
 DATE [Signature]  
 BY [Signature]

ALLOTTEES: MINISH PROPERTIES LIMITED PARTNERSHIP &  
 MF HOLDINGS, INC.  
 BY [Signature]  
 STATE OF ARKANSAS  
 COUNTY OF ARKANSAS

ALLOTTEES: FORT SMITH LOGGING, LLC - LOT 5A  
 BY [Signature]  
 STATE OF LOUISIANA  
 COUNTY OF WABASH

PLANNING COMMISSION APPROVAL  
 2/12/04  
 FILED  
 FEB 12 2004  
 CLERK OF COURTS  
 COUNTY OF ARKANSAS

SY ADDITION  
 Lot 4B and 5A  
 BEING A REPLAT OF LOT 4A, SY ADDITION, CORRECTED PLAT AND LOT 5,  
 SY ADDITION, CORRECTIVE PLAT, BEING PART OF COMMERCIAL LOT 2 OF THE  
 FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

DATE: JANUARY, 2004  
 SCALE: 1"=40'  
 JOHN NO. 0314773

HAWKINS-WEIR ENGINEERS, INC.  
 Engineers • Surveyors • Consultants  
 110 South 7th Street  
 P.O. Box 843  
 Van Buren, AR 72957-0846  
 (479) 474-1229  
 (479) 474-8588  
 www.hawkes-weir.com

MC CONROY CORP., LOT 2, 2004  
 S 89°57'48" E 307.70'  
 LOT 1, SY ADDITION  
 FILED NOV 28, 1994

LOT 4B  
 S 89°57'48" E 307.70'  
 N 01°00'00" E 9.74'  
 S 89°57'48" E 307.70'

LOT 5A  
 S 89°55'00" W 141.57'  
 S 00°07'00" E 100.00'  
 N 89°00'25" W 149.79'  
 LOT 3, SY ADDITION  
 FILED JUNE 20, 1925

LOT 4A  
 S 89°55'00" W 141.57'  
 S 00°07'00" E 100.00'  
 N 89°00'25" W 149.79'  
 LOT 3, SY ADDITION  
 FILED JUNE 20, 1925

LOT 5A  
 S 89°55'00" W 141.57'  
 S 00°07'00" E 100.00'  
 N 89°00'25" W 149.79'  
 LOT 3, SY ADDITION  
 FILED JUNE 20, 1925

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 S 00°07'00" E 100.00'  
 N 89°00'25" W 149.79'  
 LOT 3, SY ADDITION  
 FILED JUNE 20, 1925

For Public (not private) right-of-way and easement dedication.  
 The right-of-way (R.O.W.) shown on this plat is hereby dedicated to  
 the City of Fort Smith, Arkansas, for the purpose of providing  
 access and other purposes. Any easement designated as a "liberty  
 easement" is declared to be the property of the City of Fort Smith,  
 Arkansas, and shall remain in the City of Fort Smith, Arkansas,  
 and shall not be subject to any other claim or interest. The City  
 of Fort Smith, Arkansas, shall have the right to use the R.O.W. for  
 any public purpose, and shall have the right to alter the R.O.W. at  
 any time without compensation to the owner. The City of Fort Smith,  
 Arkansas, shall have the right to use the R.O.W. for any public  
 purpose, and shall have the right to alter the R.O.W. at any time  
 without compensation to the owner. The City of Fort Smith, Arkansas,  
 shall have the right to use the R.O.W. for any public purpose, and  
 shall have the right to alter the R.O.W. at any time without  
 compensation to the owner.

City of Fort Smith  
 Planning Department  
 Sy Addition, Lot 4B & 5A  
 Case #: 4102-201-0101

8H

**PROJECT INFORMATION**

OWNER: PANERA BAKERY, 1200 PARKWAY  
 300 S. GARDEN, SUITE 100  
 FT. SMITH, AR 72903

OWNER ARCHITECT: DENNIS D. SMITH, AIA  
 215 E. BROADWAY, SUITE 200  
 NEW YORK, NY 10002  
 TEL: 212.279.2222  
 WWW.DENNISDSMITH.COM

ARCHITECT: DENNIS D. SMITH, AIA  
 215 E. BROADWAY, SUITE 200  
 NEW YORK, NY 10002  
 TEL: 212.279.2222  
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PERMITS: 2017.07.27  
 77 SOUTH, AT 72903  
 LOT: 40 OF 37 ADDITION

LEGAL DESCRIPTION: C2 AND C3  
 25'-0" - ONE STORY  
 USE GROUP: A2 RESTAURANT  
 CONSTRUCTION TYPE: 2B

AREA: TOTAL AREA OF TRUCK DRIVE: 6,724 S.F.  
 TOTAL AREA OF MENU BOARD: 1,400 S.F.  
 TOTAL AREA OF HOUSE (TRUCK): 2,374 S.F.

SEATING: OUTDOOR SEATING = 12  
 TOTAL SEATING = 12  
 TOTAL INTERIOR OCCUPANCY = 140

PARKING: 1. STALL POC 3.50X5.5 - 15X/3.3 - 44.8  
 1. STALL POC 3.50X5.5 - 5. STALLS  
 TOTAL STALLS REQUIRED = 31 STALLS  
 31 X STALLS PROVIDED

APPLICABLE CODES:  
 CURRENTLY ADOPTED CODES:  
 1. 2006 International Fire Prevention Code - Volume 1, Volume 2, and Volume 3  
 2. 2003 NFPA Life Safety Code  
 3. 2011 National Electric Code  
 4. City Electrical Code Ordinance  
 5. Arkansas Energy Code  
 6. 2006 Arkansas Plumbing Code  
 7. 2009 Arkansas Fuel Gas Code  
 8. City Plumbing & Gas Code Ordinance  
 9. 2010 Arkansas Mechanical Code  
 10. ASHRAE 110D, 1991 - Equipment Room Design  
 11. 2012 ASHRAE 155.1

**CONTACT INFORMATION**

PROJECT MANAGER: JEFFREY HARRINGTON  
 300 S. GARDEN, SUITE 100  
 FT. SMITH, AR 72903

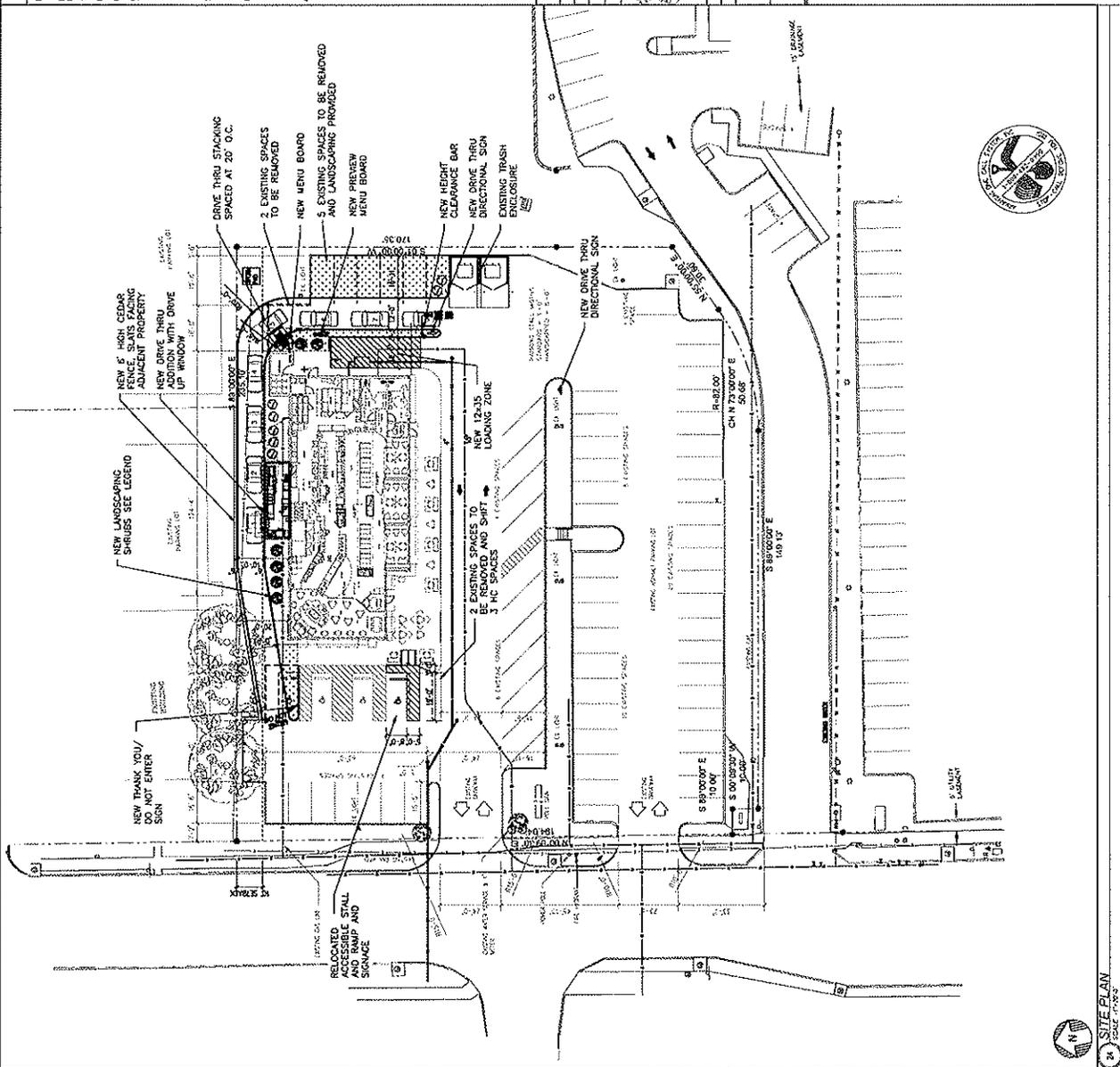
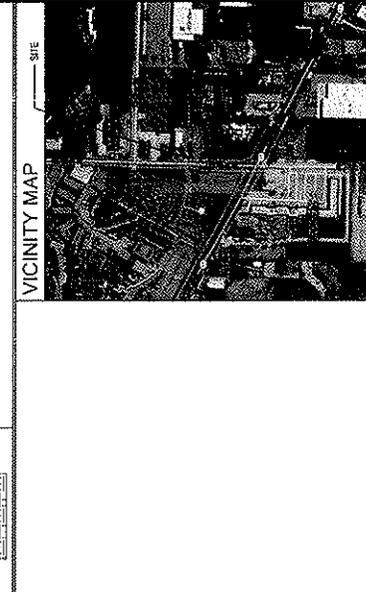
DESIGNER: DENNIS D. SMITH, AIA  
 215 E. BROADWAY, SUITE 200  
 NEW YORK, NY 10002  
 TEL: 212.279.2222  
 WWW.DENNISDSMITH.COM

**NEW PLANTINGS LEGEND**

SYMBOL	KEY	QUANTITY	COMMON NAME	ROOT	SIZE
(Symbol)	CVB	7	GREEN VELVET BOXWOOD	CONT.	5 GAL.
(Symbol)	UA	6	UPRIGHT ARBOREAL	CONT.	5' TO 6'
(Symbol)			EXISTING TREE		

**SYMBOL DESCRIPTION**

(Symbol)	GROUNDCOVER
(Symbol)	SODDED GREEN AREA
(Symbol)	MULCHED AREA



87

BAKERY CAFE:  
#2809



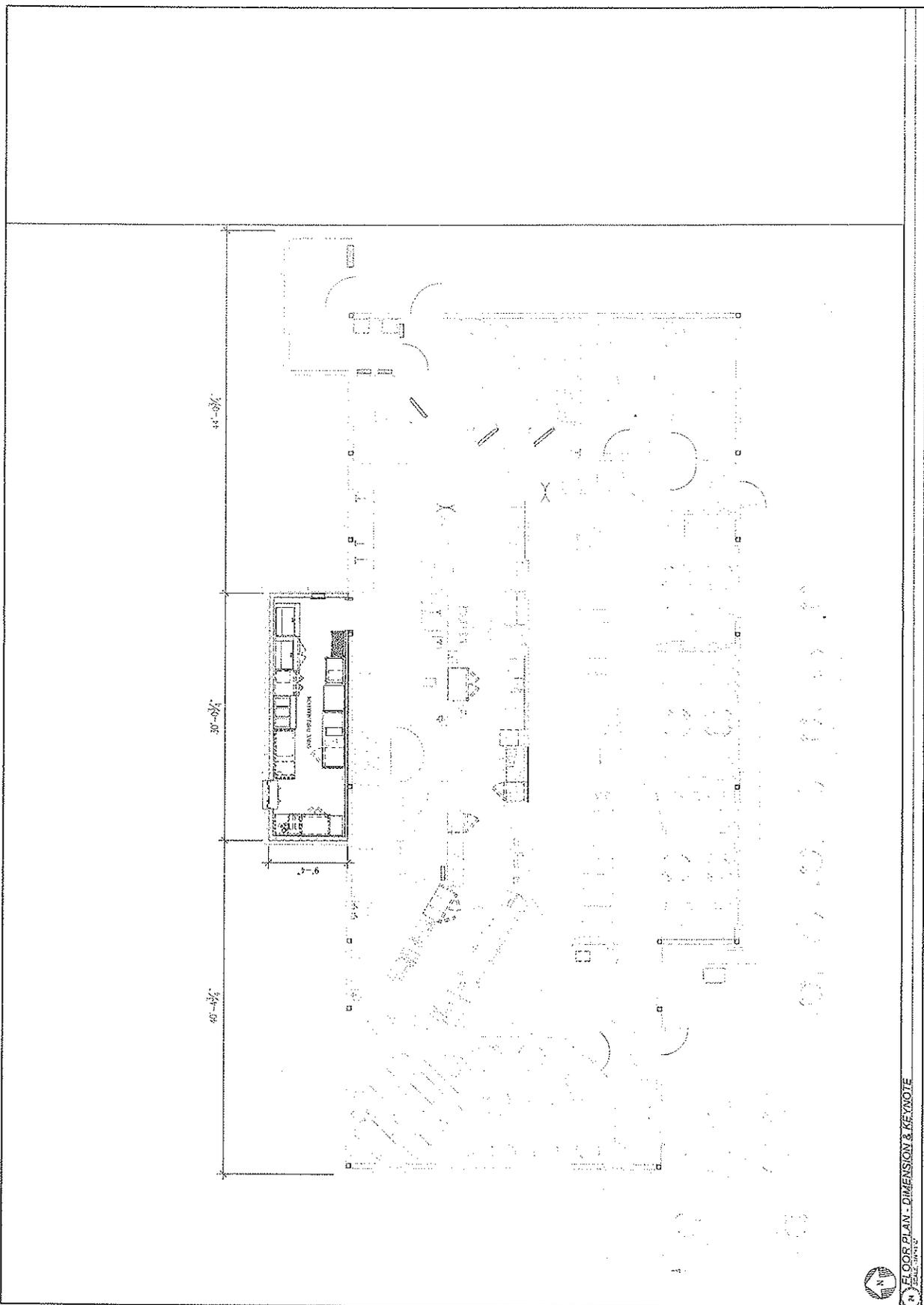
PANERA BAKERY  
2917 S. 74th St.  
Fort Smith, AR 72903

PLANNING

REVISION

DATE: 05/14/13  
DRAWN BY: [unclear]  
CHECKED BY: [unclear]

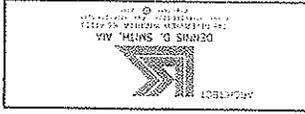
SHEET NO:  
A-2.0  
FLOOR PLAN



FLOOR PLAN - DIMENSION & KEYNOTE

89

BAKERY CASE  
#2809  
ARCHITECT



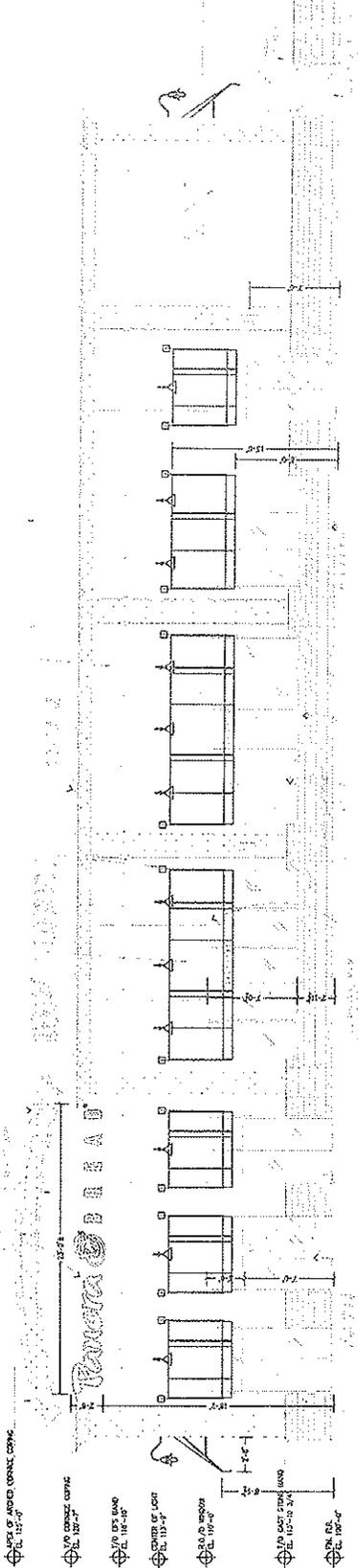
PANERA BAKERY  
Cafe #2809  
2917 S 74th St  
Fort Smith, AR 72903

PLANNING

REVISION

PROJECT: PANERA BAKERY CASE #2809  
DATE: 10/11/07  
DRAWN BY: J. SMITH  
CHECKED BY: D. SMITH

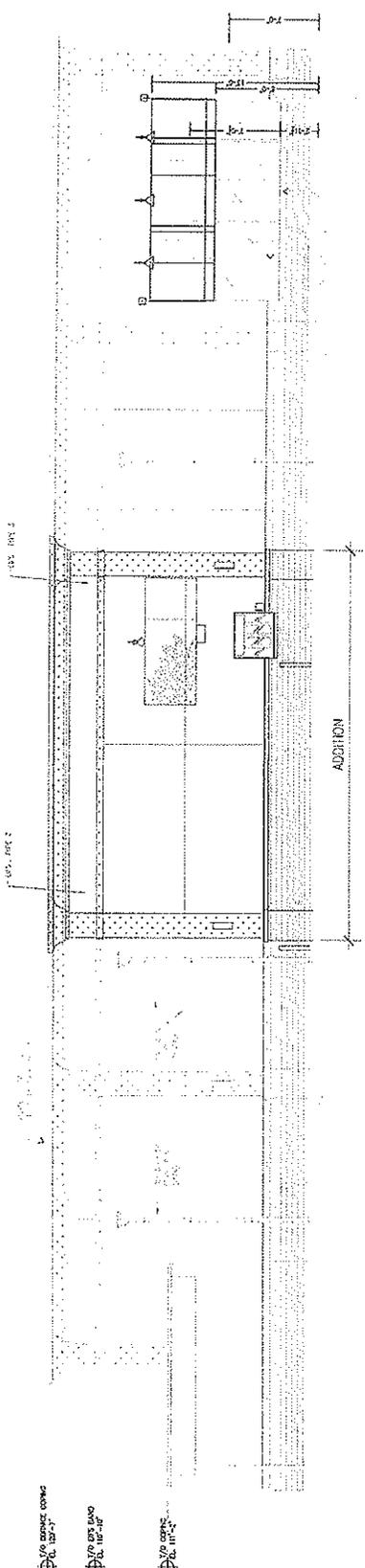
SHEET NO.  
**A-30**  
ELEVATION - SOUTH



1 ELEVATION - SOUTH  
SCALE: 1/4" = 1'-0"

SUBMIT ALL SIGN SHOP  
DRAWINGS TO ROBERT MUELLER  
FOR APPROVAL:  
FAX - 314-633-7244

- EPS TYPE 1  
POLYURETHANE INSULATION  
R-5 VALUE
- EPS TYPE 2  
POLYURETHANE INSULATION  
R-5 VALUE
- EPS TYPE 3  
POLYURETHANE INSULATION  
R-5 VALUE



2 ELEVATION - NORTH  
SCALE: 1/4" = 1'-0"

8K



ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Panera Bread 2917 South 74<sup>th</sup> St.

Meeting Time & Date 6/26/2013 1:pm CST

Meeting Purpose Discuss Drive Thru Addition to Panera Bread

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1. <u>Tyler Miller</u>	<u>City of Fort Smith</u>	<u>Miller@fortsmithAR.gov 479-784-2241</u>
2. <u>Shannaitter</u>	<u>Panera Bread</u>	<u>479-478-8989</u>
3. <u>Ronnie Hart</u>	<u>1224 E 15<sup>th</sup> Street Tulsa, OK 74012</u>	<u>918-850-2755</u>
4. <u>Becky (came for Dr. meet)</u>	<u>2913 S 74<sup>th</sup> St, Fort Smith, Arkansas</u>	<u>479-484-5050</u>
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____

SM

Notes: Fort Smith 6/26/2013

1. Becky - 4 Ft. privacy fence from the second tree to the Chain Linked fence - Pickets on Di. Moore's side.
2. Becky - Traffic Concern's
3. <sup>Becky</sup> Drainage Concerns - Will Drain to Back of our property.
4. Landscape - Either Side of the box

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 26<sup>th</sup>, 2013

**Re:** Conditional Use #18-7-13 - A request by Josh Niles, agent for Charles Farnan, for Planning Commission consideration of a Conditional Use request for an auto and vehicle impoundment or holding yard at 1302 South Zero Street

## LOT LOCATION AND SIZE

The subject property is on the south side of Zero Street between Hwy 271 and Hwy 71. The tract contains an area of 0.52 acres with approximately 131 feet of street frontage along South Zero Street.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

### Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 14,000 square feet
- Maximum Height - 45 feet (1+1)
- Maximum Lot Coverage - 75%
- Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
- Existing District (By Extension) – 14,000 square feet
- Minimum Lot Width – 100 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 20 feet
- Rear Yard Setback - 20 feet
- Side/Rear (adjoining SF Residential District/Development) – 30 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and are developed as a restaurant and a single family home.

The area to the east is zoned Commercial Heavy (C-5) and is developed as an office.

The areas to the south are zoned Residential Multifamily Medium Density (RM-3) and are developed as duplexes and one single family residence.

The area to the west is zoned Commercial Heavy and is developed as a call service center.

**PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

**CONDITIONS FOR A CONDITIONAL USE**

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and

meet the consumer needs of the community. Approval of the conditional use will not conflict with the goals and objectives of the Master Land Use Plan.

**PROPOSED CONDITIONAL USE**

The proposed conditional use if approved will allow for an auto and vehicle impoundment or holding yard to occupy the location.

**SITE DESIGN FEATURES**

**Landscaping** – The site is currently developed with concrete around the entire area and no new installation of landscaping is proposed.

**Screening** – A six foot proposed fence is located on the site plan. Planning staff required a 6’ opaque screening fence for the holding yard.

**Signage** – No new signage is proposed at this time. If any new signage is proposed all signs must obtain the proper permits.

**Lighting** – No sight lighting is proposed on the location. If sight lighting is proposed it shall not produce light trespass, or unwanted skyglow

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, June 17<sup>th</sup>, 2013 at 1304 South Zero Street. No surrounding property owners attended the meeting. There were no objections to the proposed project.

Staff recommends approval of the application contingent upon the following.

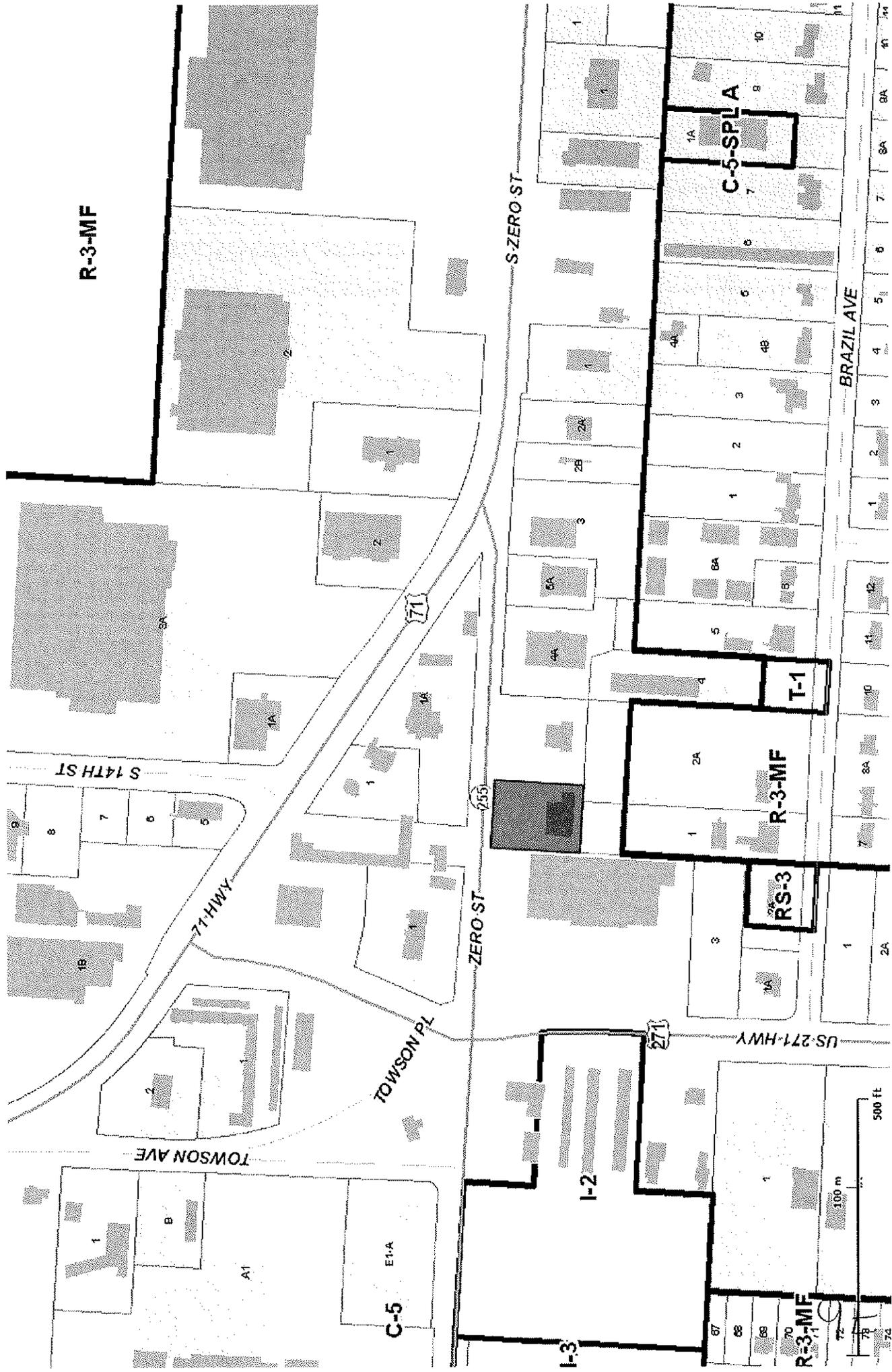
1. All construction must be built in accordance with the submitted development plan and with any planning commission amendments.
2. The proposed fence gate at the driveway entrance shall be offset from the street to avoid vehicles stopping/standing within the street right-of-way.
3. Fences placed at or in proximity to the right-of-way line must not create a sight obstruction for vehicles exiting the site.
4. The proposed fence shall be a minimum six (6) to eight (8) feet, shall be completely opaque, and constructed out of wood or masonry.
5. All site lighting shall comply with the lighting requirements of the UDO – Section 27-602-5
6. All signage shall comply with the UDO General Sign Regulations and Permitted signs in open, commercial and industrial zones – Section 27-704-5 and Section -27-704-3.

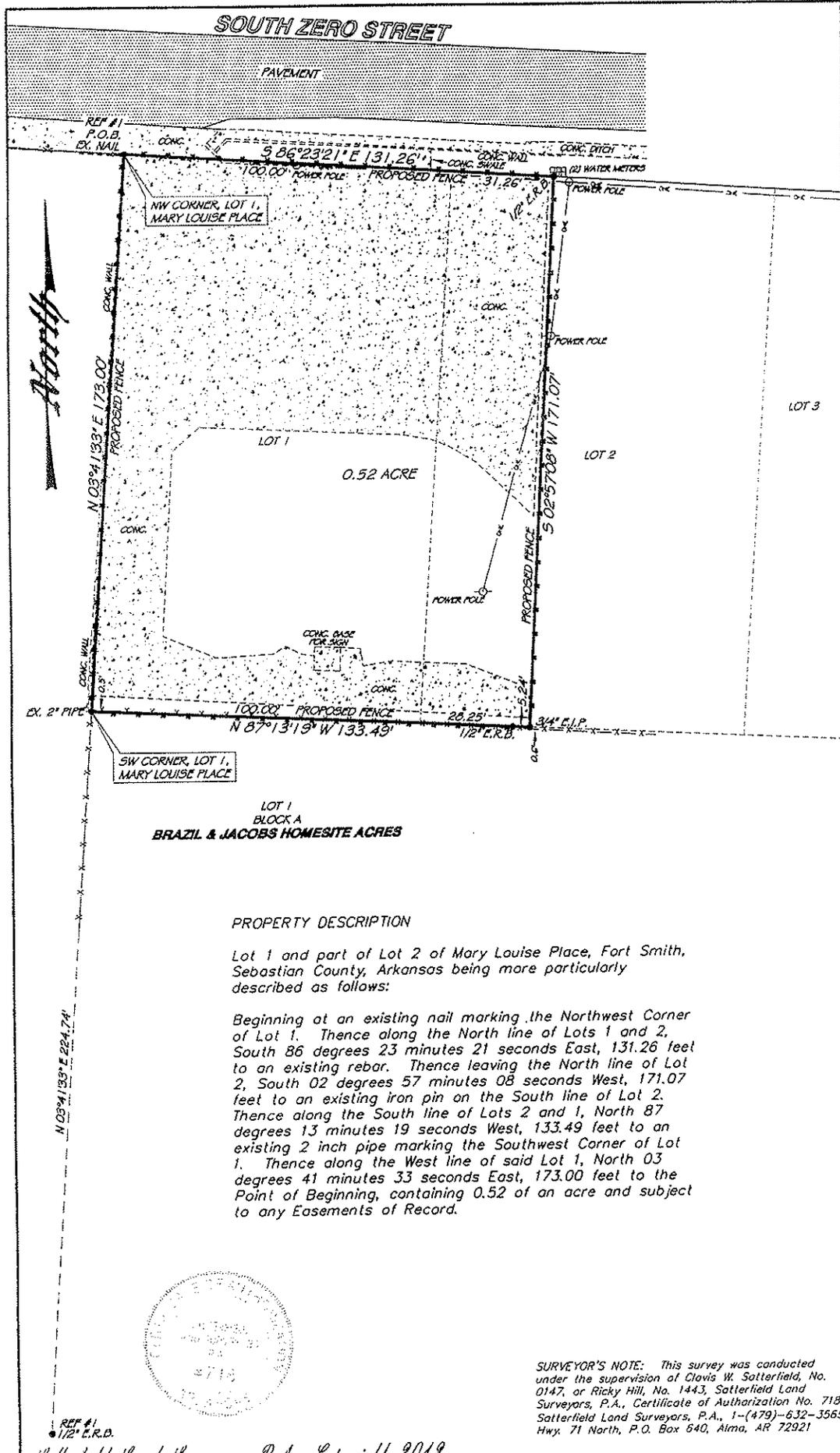
9C



# Conditional Use #18-7-13: Auto & Vehicle Impoundment or Holding Yard

1302 South Zero Street



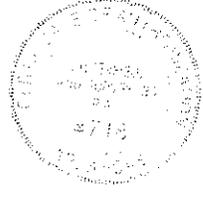


LOT 1  
BLOCK A  
BRAZIL & JACOBS HOMESITE ACRES

PROPERTY DESCRIPTION

Lot 1 and part of Lot 2 of Mary Louise Place, Fort Smith, Sebastian County, Arkansas being more particularly described as follows:

Beginning at an existing nail marking the Northwest Corner of Lot 1. Thence along the North line of Lots 1 and 2, South 86 degrees 23 minutes 21 seconds East, 131.26 feet to an existing rebar. Thence leaving the North line of Lot 2, South 02 degrees 57 minutes 08 seconds West, 171.07 feet to an existing iron pin on the South line of Lot 2. Thence along the South line of Lots 2 and 1, North 87 degrees 13 minutes 19 seconds West, 133.49 feet to an existing 2 inch pipe marking the Southwest Corner of Lot 1. Thence along the West line of said Lot 1, North 03 degrees 41 minutes 33 seconds East, 173.00 feet to the Point of Beginning, containing 0.52 of an acre and subject to any Easements of Record.



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SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 0147, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718. Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy. 71 North, P.O. Box 640, Alma, AR 72921

SURVEYOR'S NOTE: This survey was done to mark the corners on the ground and to show observed structures. Utilities located if Requested according to utility company records, and or above ground inspection. This survey was done from description furnished to us or instruction from the person(s) named on this plat. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts which

**SURVEYORS DISCLAIMER AND STATEMENT OF USE**  
This survey was conducted by the written or verbal authorization of the person named as the buyer and/or Use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization after filing with

LEGEND:  
 O 5/8" - SET 1/2" REBAR W/ CAP  
 O 3/4" - SET 1/2" REBAR  
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# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 26<sup>th</sup>, 2013

**Re:** Conditional Use #20-7-13 - A request by Al Prieur, agent for John Hagen, for Planning Commission consideration of a Conditional Use for a Church at 3702 Century Drive

## LOT LOCATION AND SIZE

The subject property is on the end of Century Drive. The tract contains an area of 2.29 acres

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5).  
Characteristics of this zone are as follows:

### Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
(1+1)

Maximum Height - 45 feet

Maximum Lot Coverage -

75%

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 20 feet

Rear Yard Setback - 20 feet

Side/Rear (adjoining SF Residential District/Development) – 30 feet

Minimum building separation – to be determined by current City building and fire code.

Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Industrial Light (I-1) and Commercial Heavy(C-5) and it is developed as a sexually oriented business.

The area to the east is zoned Industrial Light (I-1) and is developed as a small pavilion.

The area to the south is zoned Industrial Light (I-1) and is undeveloped.

The area to the west is zoned Industrial Light and is developed as Interstate 540.

**PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

**CONDITIONS FOR A CONDITIONAL USE**

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

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## **LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the conditional use will not conflict with the goals and objectives of the Master Land Use Plan.

## **PROPOSED CONDITIONAL USE**

The proposed conditional use will allow a church to operate at the existing vacant building.

## **SITE DESIGN FEATURES**

**Parking** – The church plans on utilizing the existing 83 parking spaces on site. We have reviewed the parking plans and have no issues.

**Signage** – No signage is proposed at this time. If any signage is proposed all signs must obtain the proper permits.

**Lighting** – No sight lighting is proposed on the location. If sight lighting is proposed it shall not produce light trespass, or unwanted sky glow.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Friday, June 28<sup>th</sup>, 2013 on location. John Parker, Fort Smith airport manager, was present at the neighborhood meeting. A copy of the attendance record and meeting summary are enclosed.

Staff recommends approval of the application or for the reasons stated in the staff report and contingent upon the following.

1. A copy of a letter from John Parker concerning the airport noise issues. The church has received the letter and has given us their acknowledgement of this issue.
2. All construction must be built in accordance with the submitted development plan.
3. All site lighting shall comply with the lighting requirements of the UDO – Section 27-602-5.
4. All new signs will require a separate plan review and building permit.

Conditional Use # 20-7-13

**APPLICATION FOR CONDITIONAL USE**

Name of Property Owner: John Hagen

Name of Authorized Agent (if applicable) Alvin L. Prieur, Jr., PE

Legal Description of property included in the conditional use request:  
See Attached Legal Description

Street Address of Property:  
3702 Century Drive Fort Smith, Arkansas

Existing Zoning Classification:  
Commercial -5

Proposed Zoning Classification (if applicable):  
No Change

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:  
This request is to allow The Hope Center (a Church) to move into the south end of the existing warehouse building.

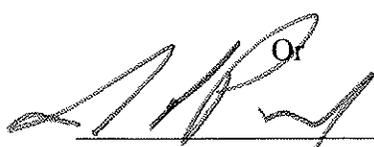
What amenities are proposed such as landscaping and screening?  
No amenities are proposed. A section of the building not being used at the present will be used and the area cleaned up.

Alvin L. Prieur, Jr., PE  
~~Owner~~ or Agent Name (please print)

Signed: \_\_\_\_\_  
Owner

P O Box 1689 Van Buren, Arkansas 72957  
~~Owner~~ or Agent Mailing Address

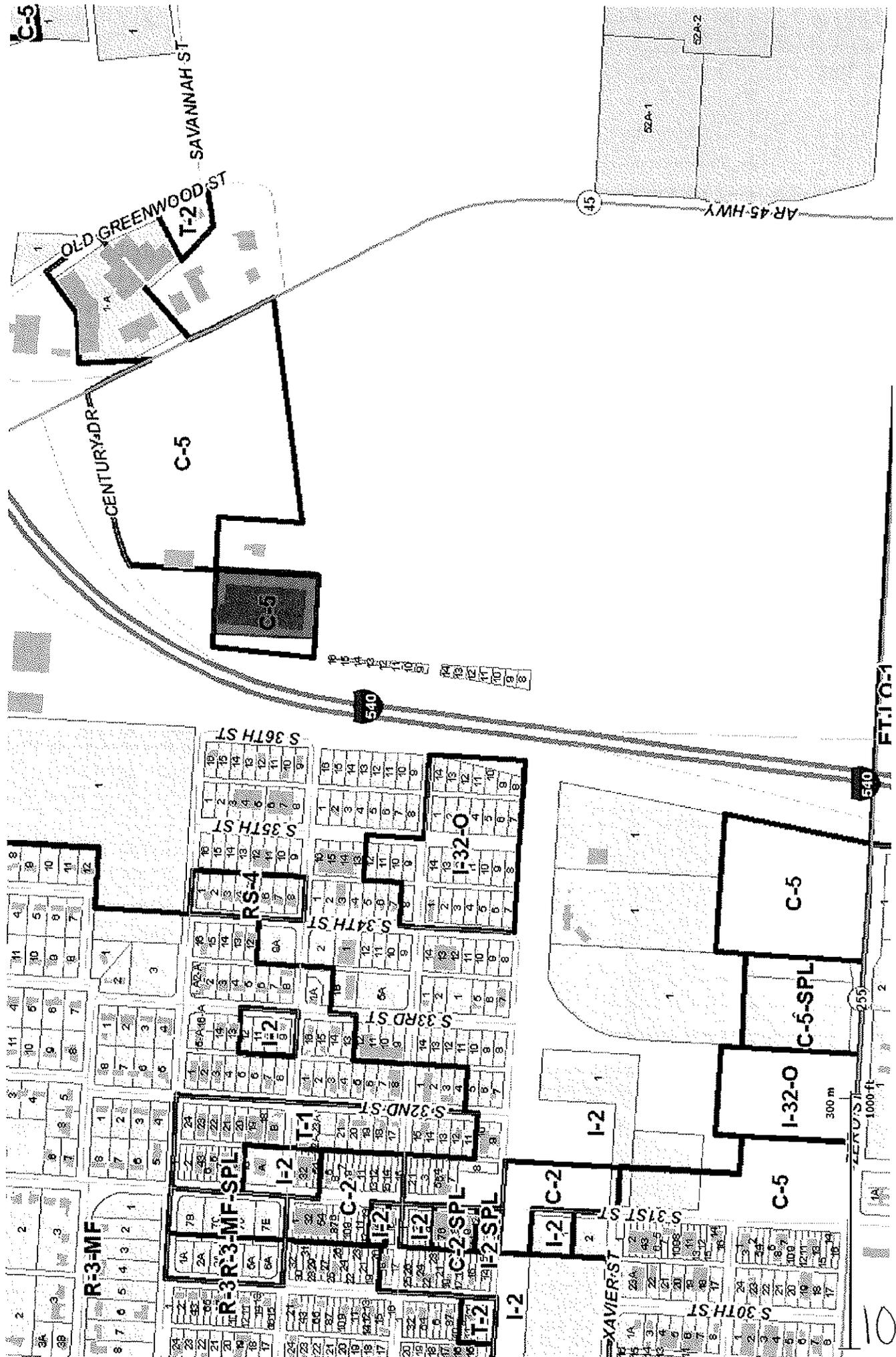
479-651-7920  
~~Owner~~ or Agent Phone Number

  
Or  
Agent

100

# Conditional Use #20-7-13: Church

3702 Century Drive

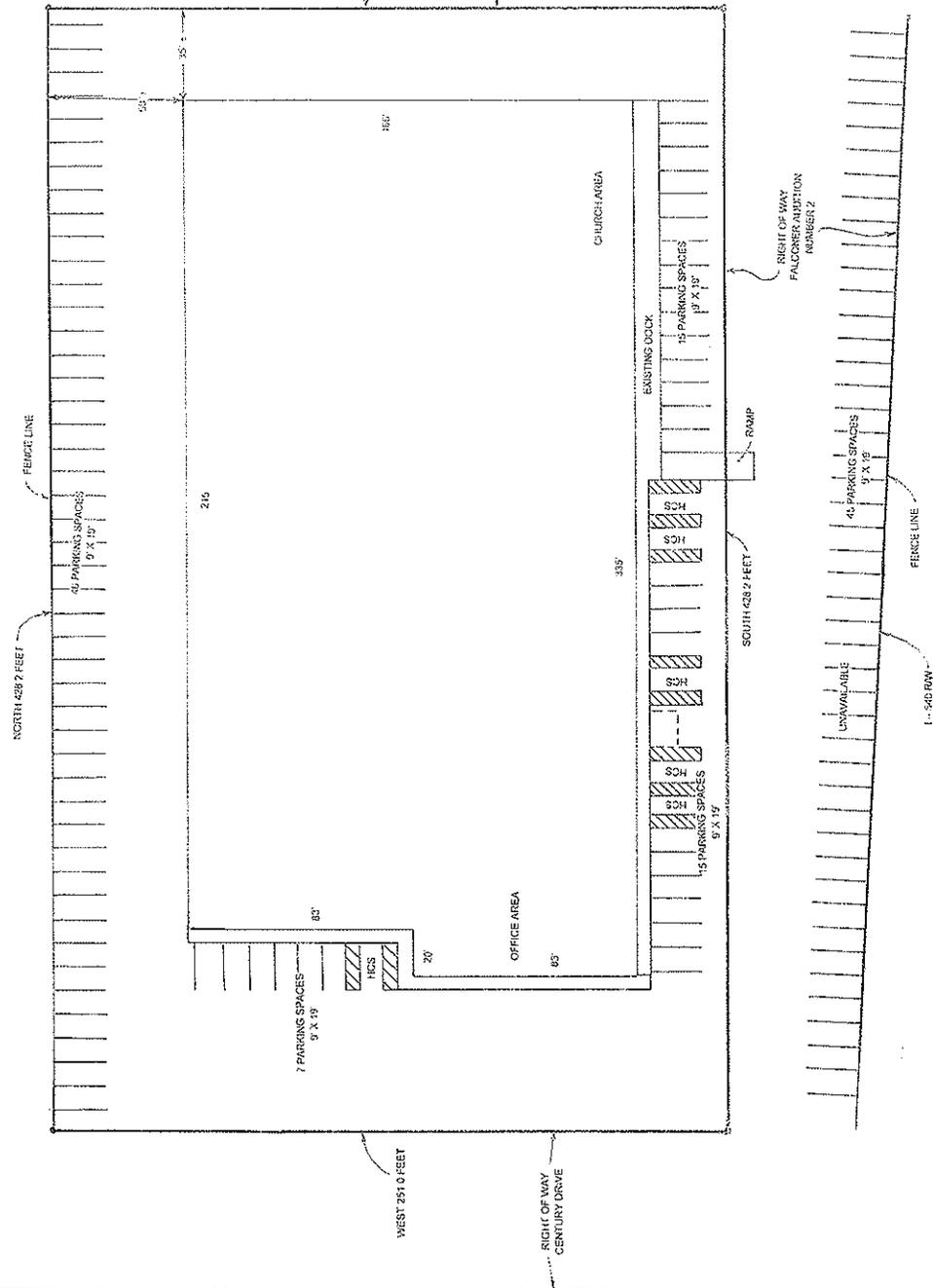


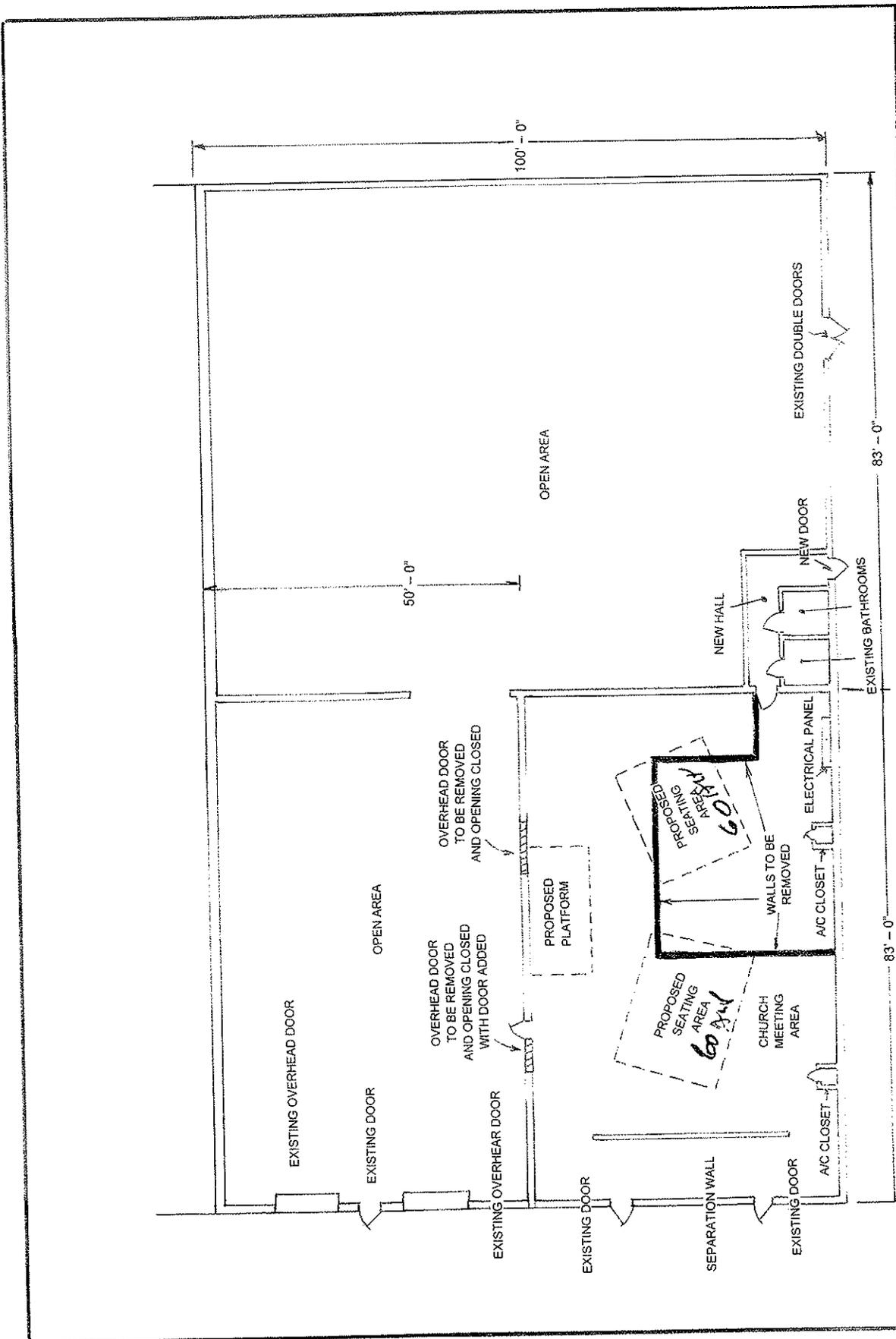
**LEGAL DESCRIPTION:**

A part of the Northwest Quarter of the Southwest Quarter of Section 14, Township 35 North, Range 10 West, 1st Meridian, Beginning at a point 208.8 feet north to the West of the Northeast corner of the Northeast Quarter of the Southeast Quarter and 208.8 feet north to the West of the Northeast corner of a one-acre lot in the town (60) a square at the Northeast corner of the Northwest Quarter of the Southeast Quarter, thence West 251 feet, more or less, by the East side of Bishop Street (now known as South 17<sup>th</sup> Street) as shown on the revised Plat of Falgouters Addition, Number Two to First State, Arkansas, thence South 428.2 feet, to a point due East of the Southeast corner of Block 1, and thence East of Falgouters Addition, Number Two to the point of beginning, North 88.2 feet to the POINT OF BEGINNING, EXCEPT PUBLIC ROADS.

**SITE LAYOUT  
CONSTRUCTION  
1501 CENTURY DRIVE  
FORT SMITH, ARKANSAS  
SCALE 1" = 20' - 0"  
JUNE 12, 2013**

**PRIEUR ENGINEERING**  
ARCHITECTS  
P. O. BOX 1689  
VAN BUREN, ARKANSAS 72557  
479.631.7520  
aprieur@earthlink.net





PRIEUR ENGINEERING  
 Alvin L. Prieur, Jr., PE  
 P. O. BOX 1689  
 VAN BUREN, ARKANSAS 72957  
 479-681-7920  
 aprieur@cox.net

EXHIBIT  
 CHURCH AREA  
 THE HOPE CENTER  
 CONDITIONAL USE APPLICATION  
 3702 CENTURY DRIVE  
 FORT SMITH, ARKANSAS  
 SCALE: 1" = 10' - 0"



BUILDING IS PROTECTED  
 BY AN EXISTING FIRE  
 SPRINKLER SYSTEM

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**PRIEUR ENGINEERING**  
**Alvin L. Prieur, Jr., PE**  
**P. O. BOX 1689**  
**VAN BUREN, ARKANSAS 72957**  
**479-651-7920**  
**aprieur@cox.net**

July 1, 2013

City of Fort Smith  
Planning Department  
P O Box 1908  
Fort Smith, Arkansas 72902

ATTN: Mr. Tyler Miller

RE: Conditional Use Permit  
3702 Century Drive  
Fort Smith, Arkansas

Dear Mr. Miller:

Attached you will find a copy of the attendance sign-in sheet for the neighborhood meeting for the church of Century Drive. There were five (5) people in attendance. The only one without a connection to the project was Mr. John Parker, the Airport Director.

Mr. Parker presented information on the sound levels at the airport and the runways. This property is near the end of the primary runway and subject to the sound levels of landings and takeoffs. In 1995 a study was done for the airport on decibel levels. When the study was done this site would have been a problem for a church due to the noise. The study was done when there were F-16's in action at the airport. The airport does not have F-16's and the decibel level has dropped but Mr. Parker did pointing out

10H

**PRIEUR ENGINEERING**  
**Alvin L. Prieur, Jr., PE**  
**P. O. BOX 1689**  
**VAN BUREN, ARKANSAS 72957**  
**479-651-7920**  
**aprieur@cox.net**

Page 2

that there could be a sound problem at times and that the mission of the airport could change. The church is aware of this because there were some noises from a landing/take-off when the building - walk through was done with the City of Fort Smith. The church does not have a problem with the noise.

There were no other comments at the meeting.

Respectfully,  
PRIEUR ENGINEERING

  
Alvin L. Prieur, Jr., PE



7-1-2013

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ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location On-Site 3702 Century Drive

Meeting Time & Date June 28, 2013 2:30 p.m.

Meeting Purpose Discuss Permit

NAME

ADDRESS

PHONE #

Representative	1.	Al Prieur	P.O. Box 1689 VB 78957	<del>479</del> 479-651-7920
City of FS	2.	Tyler Miller	City of Fort Smith	479-784-2241
Church	3.	<del>Mark M...</del>	809 N 16th VB	479-259-7764
Airport	4.	JOHN PARKER	FORT SMITH REGIONAL AIRPORT	479 452 7000
Property owner	5.	John Hoyer	9900 Essex Place	479-522-5958
	6.			
	7.			
	8.			
	9.			
	10.			
	11.			



6700 McKennon Blvd., Suite 200 • Fort Smith, AR 72903  
479.452.7000 x50 • 479.452.7008 fax  
www.fortsmithairport.com

June 28, 2013

VIA Email: WBailey@FortSmithAR.gov

Mr. Wally Bailey  
Director of Development Services  
P.O. Box 1908 (02)  
623 Garrison Avenue (01)  
Fort Smith, AR 72901

Mr. Bailey:

Please be advised that we have received and reviewed the proposed Conditional Use Permit for a church to be located at 3702 Century Drive. This property is located just north of the extended centerline of our primary runway. This runway is used for all operations and exclusively for military fighter and cargo aircraft.

The property will be subjected to noise levels, during military operations, which fall within the 70 DB to 75 DB decibel range as indicated on the noise map dated 1995. The noise study indicates that for a church to operate within the 70-75 DB range it would need to have noise dampening materials with would lower the noise to 30 DB.

The figures in this study were recorded during the time the 188<sup>th</sup> ANG had F-16 aircraft assigned at the Fort Smith Regional Airport. Those aircraft are no longer present but transit aircraft of this, and other, type routinely transit our airport causing noise.

The concern of the Commission is that the tenant church understands that the potential for noise impact to their activities is present and that if future aircraft noise producers such as based fighters return to the airport the church may be required to utilize noise dampening materials.

Please feel free to contact me if you have questions.

Regards,

John Parker  
Airport Director

10K

Hope Epicenter Inc.  
809 N 16  
Van Buren, AR 72956  
479-652-0470

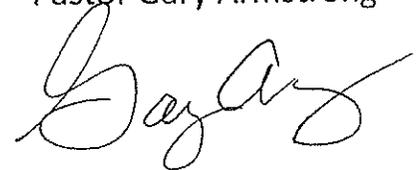
7-1-13

To whom it may Concern:

We have been given a copy of a letter from the Airport Director Mr. John Parker.

This letter was addressed to Mr. Wally Bailey. The letter has been read and I understand the information contained within. We acknowledge that there maybe some noise problems. If the noise becomes a problem dampening materials will be installed as needed

Pastor Gary Armstrong

A handwritten signature in black ink, appearing to read "Gary Armstrong", written in a cursive style.

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** July 3, 2013

**Re:** Conditional Use #21-7-13 - A request by Craig Roberts, agent, for Planning Commission consideration of a Conditional Use request to develop an outdoor advertising sign (billboard) at 4801 Phoenix Avenue (4896 I-540) (Companion to item #19)

## LOT LOCATION AND SIZE

The subject property is on the north side of Phoenix Avenue across from South 46<sup>th</sup> Street. The tract has approximately 938 feet of street frontage along Phoenix Avenue.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

### Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

### **Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet  
Minimum Lot Width – 100 feet  
Front Yard Setback - 25 feet  
Side Yard on Street Side of Corner Lot - 15 feet  
Side Yard Setback – 20 feet  
Rear Yard Setback - 20 feet  
Side/Rear (adjoining SF Residential District/Development) – 30 feet  
Minimum building separation – to be determined by current City building and fire code.  
Required street access – Minor Arterial or higher

Maximum Height - 45 feet (1+1)  
Maximum Lot Coverage - 75%

### **SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Industrial Light (I-1) and is developed as Interstate 540 right-of-way.

The area to the east is zoned Commercial Heavy Special (C-5-SPL) and is developed as Academy Sports & Outdoors.

The areas to the south are zoned Industrial Light (I-1) and are developed as Fed Ex and a heating and air conditioning contractor.

The area to the west is zoned Industrial Light (I-1) and is developed as Interstate 540 right-of-way.

### **PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

### **CONDITIONS FOR A CONDITIONAL USE**

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

11B

## **LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the Conditional Use will not conflict with the goals and objectives of the Unified Development Ordinance. (companion item #19, Variance)

## **PROPOSED CONDITIONAL USE**

The objective of the proposed conditional use is to move an existing outdoor advertising sign approximately 500 feet east of its current location. (*See attached map.*) The City of Fort Smith permitted a sign at 4398 Phoenix Avenue prior to the recent moratorium and new sign regulations. The Arkansas Highway and Transportation Department (AHTD) rejected or denied a permit for this sign because it was too close to the existing sign at which is the subject of this application. Moving the existing sign to the east will allow the AHTD to permit the sign at 4398 Phoenix Avenue.

The applicant would also like to increase the size of the sign to 480 square feet. Section 27-704-4(F) of the UDO states that sign area in excess of three hundred seventy-eight (378) square feet but not to exceed six hundred seventy two (672) square feet along interstates may be allowed by the Planning Commission's approval of a Conditional Use request so long as an equivalent or greater amount of sign square footage is deleted by the loss of one or more of the applicant's sign credits in the sign bank.

Additionally, this property is zoned Commercial-5-SPL. The special indicates there were special conditions given to the property when the rezoning was approved. The special conditions require that any development on the property will require a Development Plan Review.

Section 27-332-4 of the UDO states that a Conditional Use permit satisfies the requirement for a Development Plan Review.

With the approval of this Conditional Use the applicant would like to construct a new outdoor advertising sign (billboard). The sign would be 12' x 30' (480 square feet) located on the northeast corner of the property along Interstate 540. The new sign location will be approximately 500 feet to the east of the existing sign. The applicant has acknowledged that they will remove an equivalent amount of existing signage from the sign bank to equal the increase in size of this sign. The applicant would like to wait until approval before removing any existing signage.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, July 1, 2013 at 4801 Phoenix Avenue. The applicant and staff were the only persons in attendance at the neighborhood meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

It should be noted that the actual address for the sign is 4896 I-540 **not** 4801 Phoenix Avenue.

11C

The City of Fort Smith permitted a sign at 4398 Phoenix Avenue prior to the recent moratorium and new sign regulations. The Arkansas Highway and Transportation Department (AHTD) rejected or denied a permit for this sign because it was too close to the existing sign at which is the subject of this application. Moving the existing sign to the east will allow the AHTD to permit the sign at 4398 Phoenix Avenue.

The applicant has indicated that to comply with the requirement of removing a sign credit of equal or greater existing signage that RAM Outdoor Advertising is proposing to remove one side (south bottom half) of an existing sign at 10818 Old Highway 71 South. A copy of an email and pictures concerning this sign are enclosed.

The Planning staff does not believe the removal of one side of a sign meets the requirements of the code. When calculating the sign credit or signage the City of Fort Smith code allows for the measurement of double face signs that only one (1) display face shall be counted in computing the actual sign area. The sign at 10818 Old Highway 71 South is a double stacked, double face sign. Therefore, the square footage is the double face not a single face. When looking at that sign we see both sides as making up the sign or the sign credit.

Additionally a variance must be approved to allow the proposed sign to be closer to a residential zone than what is allowed by the code.

The planning commission has several options with regard to this application. The following summary includes some options for your information and consideration:

1. Deny the variance request. Result: The conditional use is void. The sign at 4398 Phoenix Avenue would not be permitted by the Arkansas Highway and Transportation Department (AHTD) as a result of this sign on I540 not being moved.
2. Approve the variance and deny the conditional use. Result: The sign could not be moved and the sign at 4398 Phoenix Avenue would not be permitted by the AHTD.
3. Approve the variance and amend the conditional use application. Result: Amending the conditional use /development plan approval to 378 square feet or less in size. This will allow the sign at 4398 Phoenix Avenue to be permitted by AHTD.
4. Approve the variance and the conditional use as submitted. Result: This will allow a 480 square foot sign on I540, approximately 500 feet east of its current location and would allow the sign at 4398 Phoenix Avenue to be permitted by AHTD.

**Striplin, Bill**

---

**From:** Craig [craigaroberts@tx.rr.com]  
**Sent:** Saturday, May 18, 2013 11:14 AM  
**To:** Striplin, Bill  
**Subject:** I-540 re-location of existing sign permit request  
**Attachments:** KMW Property 4801 Phoenix Avenue.pdf

Bill, Attached is a permit request to move an existing sign on I-540/Phoenix Ave. The new sign will be located approximately 100' West of the property line and 2' South of the highway right of way. Please let me know if there is anything else that you may need.

Hope you have a great weekend and everyone has a blast.

Thanks,  
Craig Roberts

Conditional Use # 21-7-13

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: Kim W Property

Name of Authorized Agent (if applicable) Craig A. Roberts

Legal Description of property included in the conditional use request:  
See attached

Street Address of Property:  
4801 South Phoenix Avenue

Existing Zoning Classification:  
C-5-SPL

Proposed Zoning Classification (if applicable):  
N/A

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:  
12' x 40' sign (480 sq. ft)

What amenities are proposed such as landscaping and screening?  
N/A

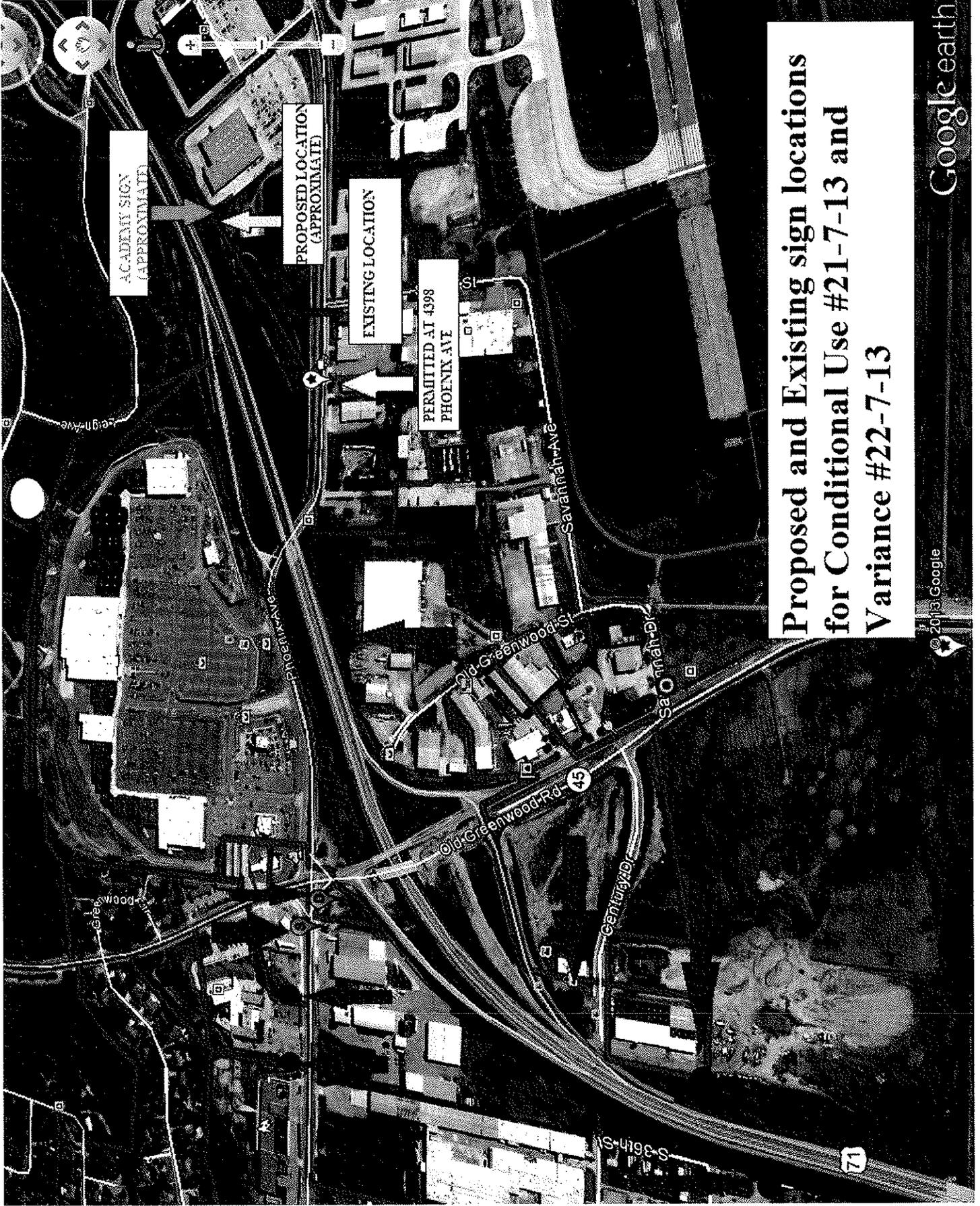
Craig A. Roberts  
Owner or Agent Name (please print)  
PO Box 452052  
Garland, TX 75045-2052  
Owner or Agent Mailing Address

Signed: \_\_\_\_\_  
Owner

(712) 530-8698 office  
(712) 672-7311 mobile  
Owner or Agent Phone Number

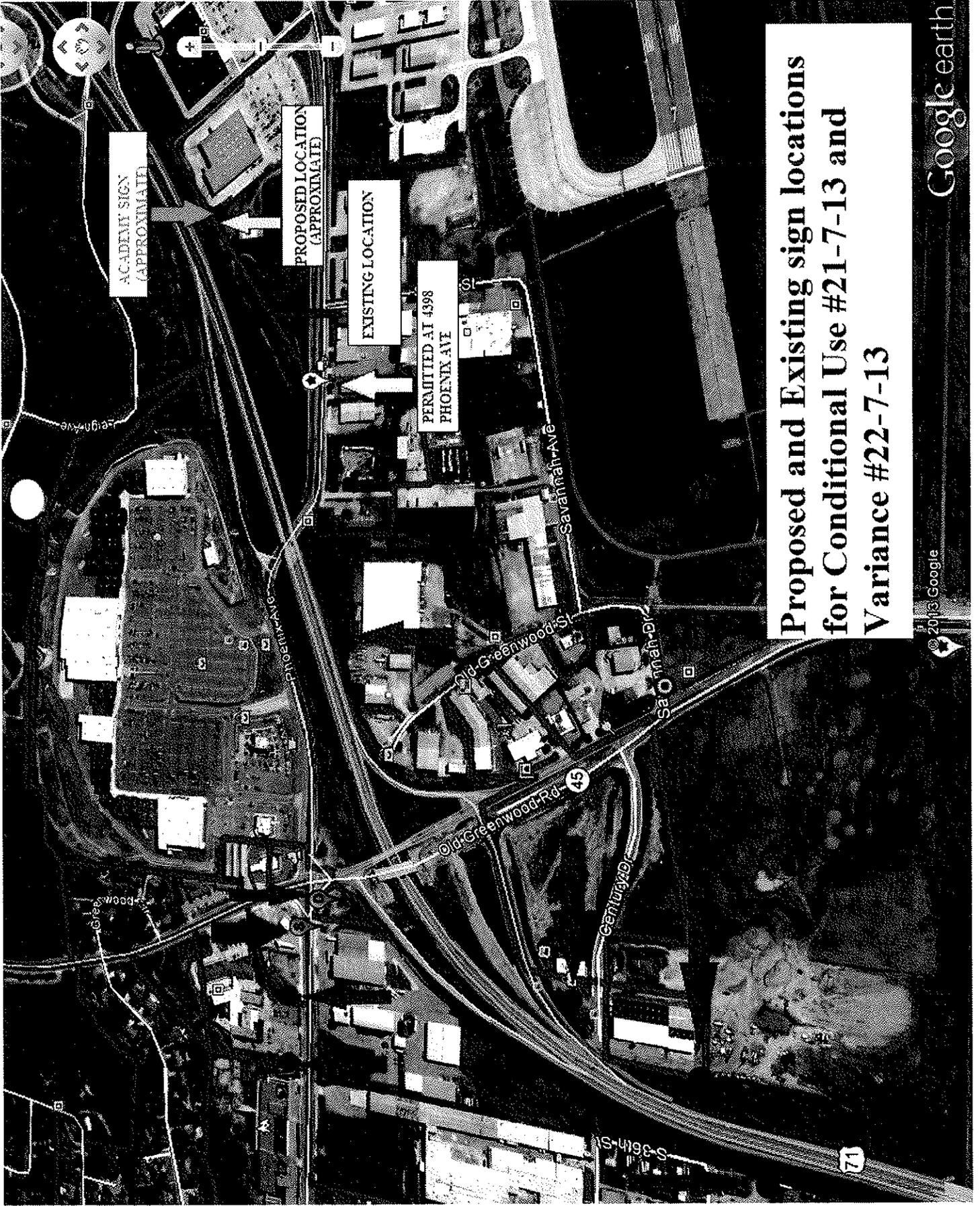
Or  
Craig A. Roberts  
Agent

11F



**Proposed and Existing sign locations  
for Conditional Use #21-7-13 and  
Variance #22-7-13**

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**Proposed and Existing sign locations  
for Conditional Use #21-7-13 and  
Variance #22-7-13**

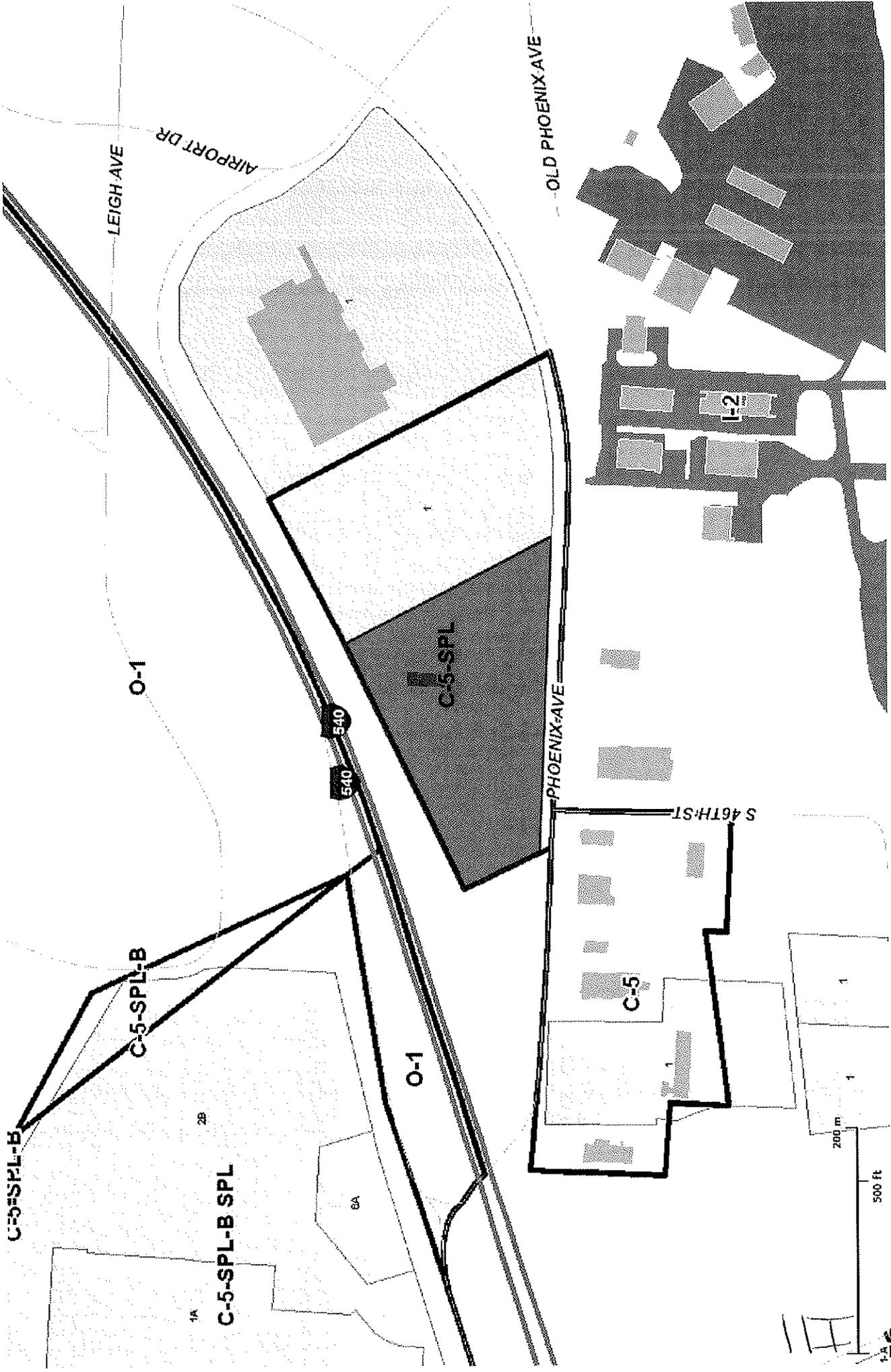
© 2013 Google

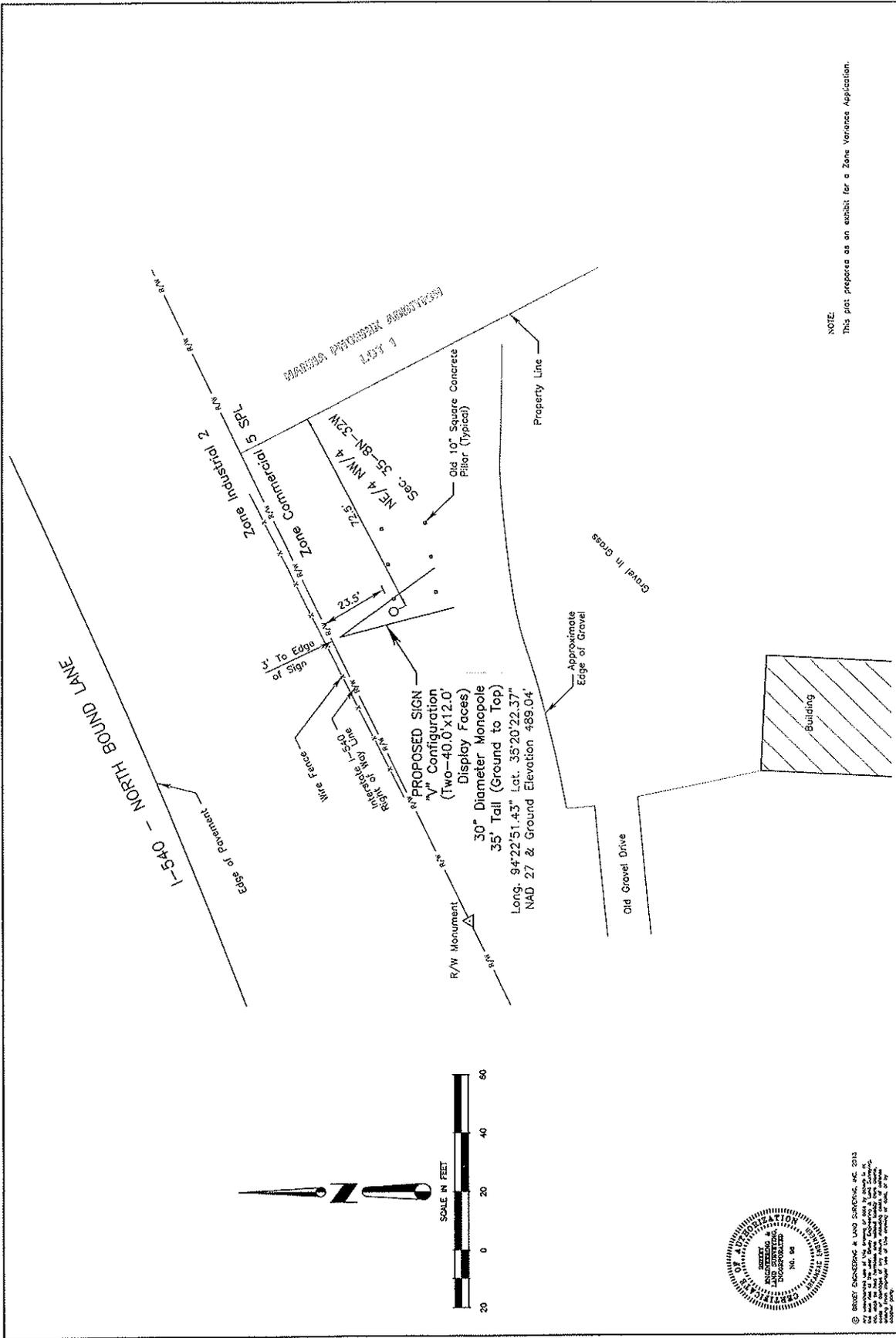
Google earth

///H

# Conditional Use #21-7-13: Outdoor Advertising Sign (billboard)

4801 Phoenix Avenue





NOTE:  
This plot prepared as an exhibit for a Zone Variance Application.

© BRIXEY ENGINEERING & LAND SURVEYING, INC. 2013  
All measurements are in feet, unless otherwise noted. The surveyor is not responsible for any errors or omissions on this plan. The user of this plan is advised to verify all measurements and locations before using this plan for any purpose. The user of this plan is advised to verify all measurements and locations before using this plan for any purpose.



Date:	June 17, 2013
Drawn By:	DRG
Approved:	
Job No.:	13-0142
Sheet:	
Total:	

**SITE PLAN**  
PROPOSED SIGN LOCATION  
OF THE NW/4  
SECTION 15, T-8-N, R-30-W  
FORT SMITH, ARKANSAS  
Prepared for: Tom Outdoor Advertising

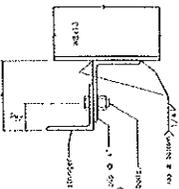
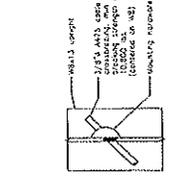
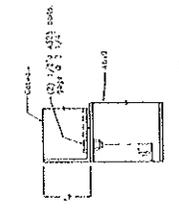
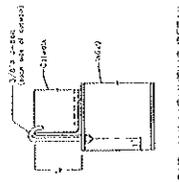
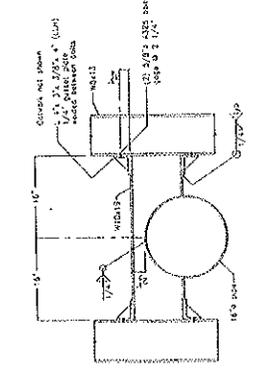
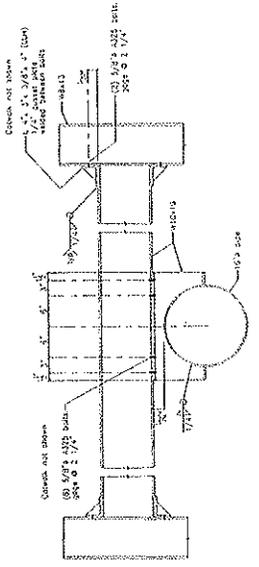
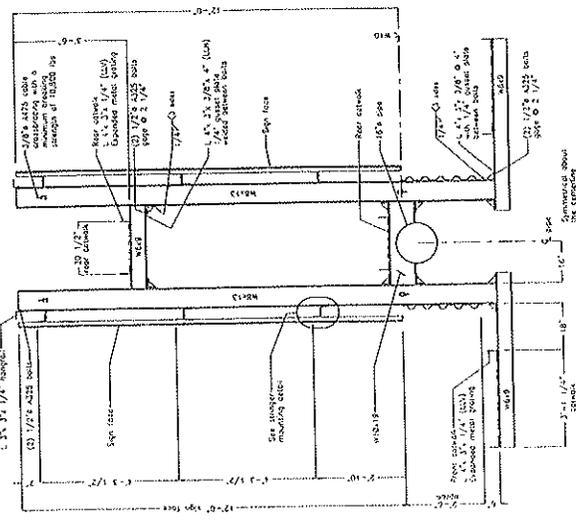
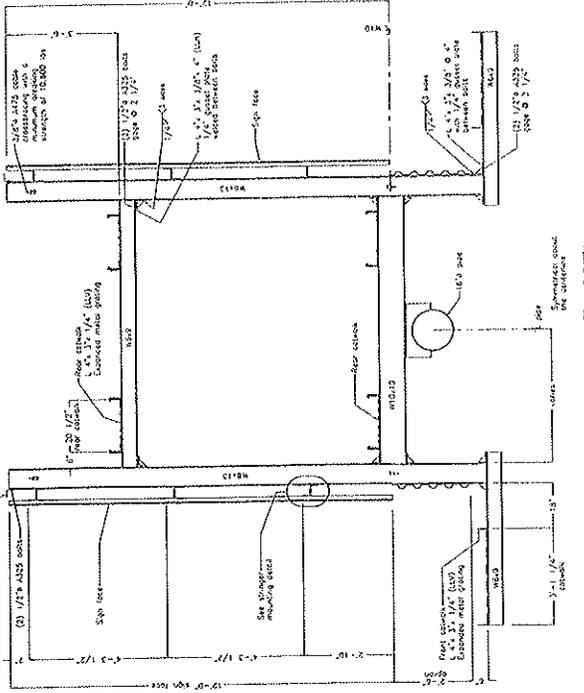
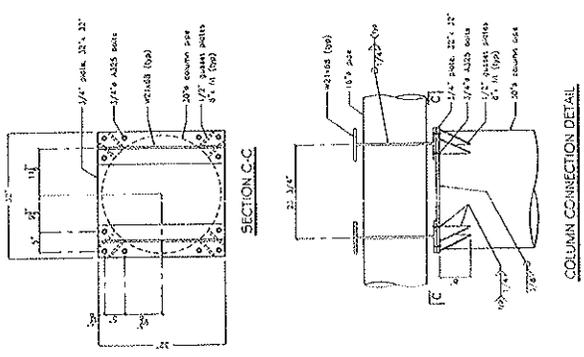


Revisions:	

LEGEND	
Blank	Blank
Shaded	Shaded
Diagonal Lines	Diagonal Lines
Stippled	Stippled
Other	Other

**BRIXEY ENGINEERING & LAND SURVEYING, INC.**  
CONSULTING ENGINEERS -- LAND SURVEYORS  
5223 East Highway 415 P.O. Box 6180 Fort Smith, Arkansas 72905 (479) 645-8394

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11K



## Striplin, Bill

---

**From:** Ron Green [rgreen7912@gmail.com]  
**Sent:** Tuesday, July 02, 2013 9:17 AM  
**To:** Striplin, Bill  
**Cc:** craig@ramoutdoor.net; Jamie Roberts  
**Subject:** Ram Outdoor  
**Attachments:** Attendance List for Meetings #1.jpg; Attendance List for Meeting # 2.jpg

Bill,  
Attached are the two attendance sheets from yesterday. Nothing was discussed.  
Please let me know if you will need anything else.  
Thanks,  
Ron

--

Ron Green

Ram Outdoor Advertising  
[ron@ramoutdoor.net](mailto:ron@ramoutdoor.net)  
479.806.7735

Meeting Location 4801 S. Phoenix Ave, Fort Smith, AR 72903

Meeting Time & Date 3:00 PM July 1, 2013

Meeting Purpose The discussion about relocating an existing sign to the north east corner of property

NAME

ADDRESS

PHONE #

1. Bill Striplin City of Fort Smith 784-2211

2. Kan Green 1760 Love Hwy UB 479 806-7735

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

7. \_\_\_\_\_

8. 2

9. \_\_\_\_\_

## Striplin, Bill

---

**From:** Craig [craigaroberts@tx.rr.com]  
**Sent:** Wednesday, July 03, 2013 9:40 AM  
**To:** Striplin, Bill  
**Subject:** Square footage

To: Mr. Bill Striplin  
City Planner  
Planning department

Craig Roberts, Managing Partner of RAM Outdoor Advertising, LLP is fully aware that in the event the request for a "conditional use permit" to increase the size of the sign to 480 sq. ft. is approved than an equal or greater amount of square footage will be removed from the "Sign Bank". The location of the sign square footage to be removed is 10818 Old Hwy 71, Fort Smith, AR. And 2.1 miles south of I-540 and Hwy 71. The Lat/Long is 35°16'46.76" N by 94°22'32.45" W.

Respectfully,  
Craig Roberts  
Managing Partner  
RAM Outdoor Advertising, LLP  
7-3-2013

**From:** Striplin, Bill [<mailto:bstriplin@FortSmithAR.gov>]  
**Sent:** Wednesday, July 3, 2013 8:34 AM  
**To:** Craig  
**Subject:** Conditional Use Application

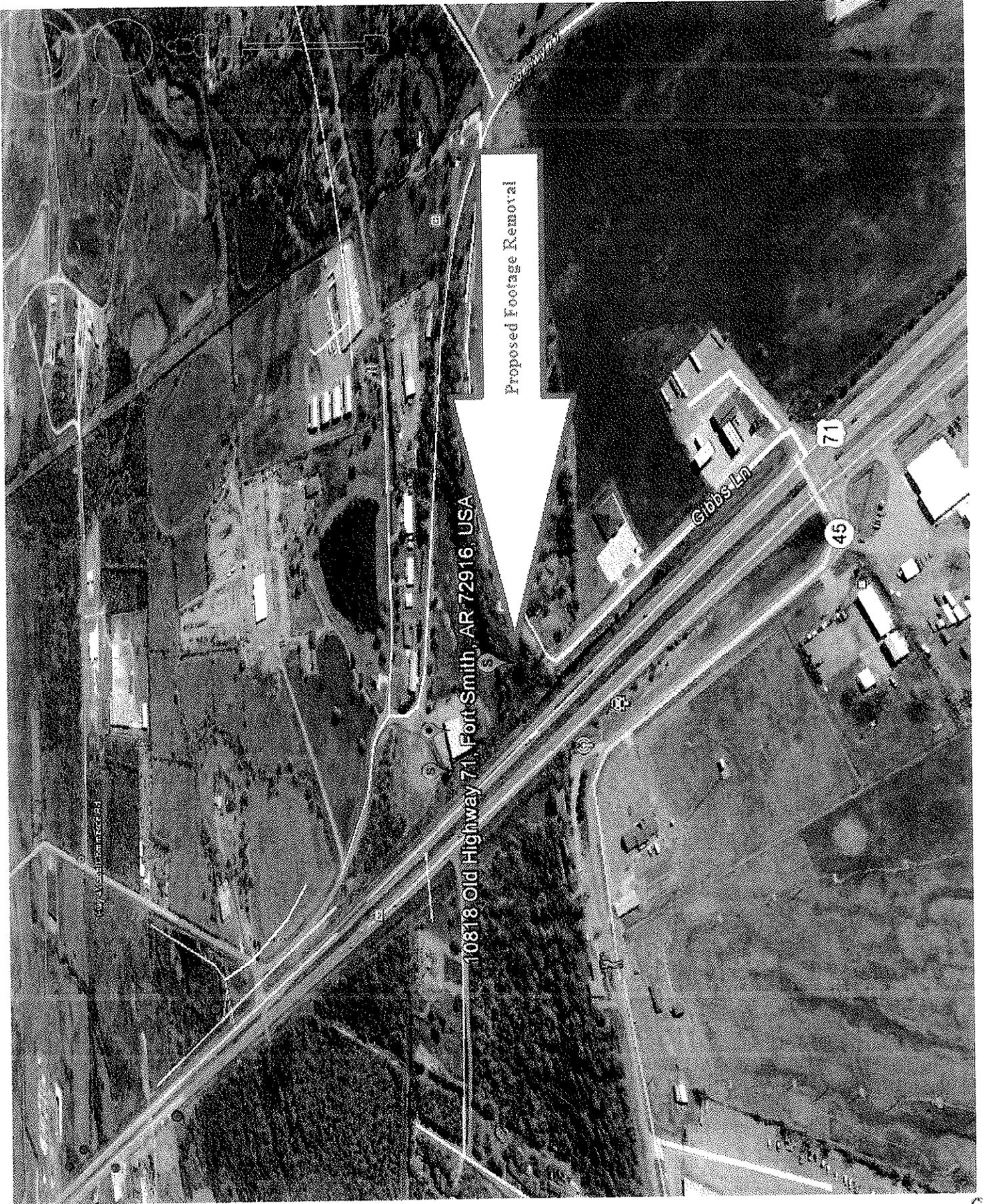
Craig,

It has been requested that a statement from you be placed in the conditional use application stating that you are aware that if the conditional use is approved for you to enlarge the proposed sign to the 12'X40' that an equal amount of square footage of offsite signage must be removed. Please include the location of the additional signage that will be removed. Thank You, Bill

Bill Striplin  
City Planner  
Planning department  
Phone: (479) 784-2211  
Fax: (479) 784-2462  
email: [bstriplin@fortsmithar.gov](mailto:bstriplin@fortsmithar.gov)



11P



11Q

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 26, 2013

**Re:** Conditional Use #22-7-13 - A request by Charles Liggett, agent, for Planning Commission consideration of a Conditional Use request to develop a parking lot (off site) at 3214 Old Greenwood Road

## LOT LOCATION AND SIZE

The subject property is on the east side of Old Greenwood Road at the intersection of Dallas Street and Old Greenwood Road. The tract contains an area of 1.56 acres with approximately 145 feet of street frontage along Old Greenwood Road.

## EXISTING ZONING

The existing zoning on this tract is Transitional (T). Characteristics of this zone are as follows:

### Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

### Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

### Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 5,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Lot Size – 40,000 square feet	Maximum Lot Coverage - 65%
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 20 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.	

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Transitional (T) and is undeveloped.

The areas to the east are zoned Transitional (T) and Commercial Neighborhood Special (C-1 SPL) and are developed as single family, office and a computer company.

The area to the south is zoned Transitional (T) and is developed as an office and dentist.

The areas to the west are zoned Residential Single Family-Duplex Low/Medium Density (RSD-2) and is undeveloped.

**PURPOSE OF CONDITIONAL USE**

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

**CONDITIONS FOR A CONDITIONAL USE**

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

The applicant would like to also request a time extension of 24 months instead of the 12 months allowed. See the attached request from Dr. Charles Liggett.

12B

## **LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as Commercial Neighborhood. This classification is intended to provide convenience goods and services in a residentially compatible design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise. Approval of the Conditional Use will not conflict with the goals and objectives of the Unified Development Ordinance.

## **PROPOSED CONDITIONAL USE**

The approval of this Conditional Use will allow the construction of a temporary parking lot for Drs. Charles Liggett and Bradley Becker.

## **SITE DESIGN FEATURES**

**Ingress/egress/traffic circulation** – Access to the parking lot will be from an existing driveway on Old Greenwood Road.

**Landscaping** – Parking lot screening will be provided along Old Greenwood Road. The plans note that three red maples and 25 boxwoods will be planted. Five more boxwoods are required to meet the ordinance requirements.

**Parking** – Ten parking spaces are proposed with this project. The parking spaces and maneuvering area are not dimensioned on the site plan. The parking spaces are to be a minimum of eight feet wide by eighteen feet in depth. The maneuvering area shall be a minimum of twenty four feet wide.

**Signage** – No signage noted with this submittal.

**Lighting** – No lighting shown with this submittal.

## **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, July 1, 2013 at 3224 Old Greenwood Road. Two people were present at the neighborhood meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

Further, the applicant is requesting a time extension to 24 months instead of the 12 months allowed to complete the requirements of the Conditional Use. The purpose for the time extension is that this proposed parking lot is anticipated to be a temporary situation.

Staff recommends approval of the application contingent upon the following:

1. Approval of the requested time extension for 24 months.
2. The landscape plan will require the addition of five approved shrubs to meet the landscaping requirements.
3. A survey will be required to be submitted at the time of building permit submittal.
4. The parking spaces are to be a minimum of eight feet wide by eighteen feet in depth. The maneuvering area shall be a minimum of twenty four feet wide. This will be verified upon plan review for the building permit.

12C

5. An opaque screen or landscape buffer is required to be installed adjacent to property zoned for residential purposes.
6. Any exterior lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow. This will be verified during plan review.
7. Any new signs will require a separate plan review and building permit.

Conditional Use # 22-7-13

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: HENSON PROPERTIES

Name of Authorized Agent (if applicable) CHARLES LIGGETT JR 005

Legal Description of property included in the conditional use request:

DAK PARK CENTRE, LOT 1B (PAGE 1631A)

Street Address of Property:

3214 OLD GREENWOOD RD, FT SMITH, AR, 72903

Existing Zoning Classification:

T

Proposed Zoning Classification (if applicable):

N/A

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

PLEASE SEE ATTACHED (EXHIBIT B)  
~~OFF~~ PARKING LOT (OFF-SITE)

What amenities are proposed such as landscaping and screening?

PARKING LOT SCREENING

CHARLES LIGGETT JR 005  
Owner or Agent Name (please print)

Signed:

3224 OLD GREENWOOD RD. FT SMITH, AR 72903  
Owner or Agent Mailing Address  
646-9700

Owner

Owner or Agent Phone Number

Or  
[Signature]  
Agent

12E

## Neighborhood Meeting Notes

Meeting was called to order at approximately 600pm Monday July 1st, 2013. In attendance were Brad Becker DDS, Tyler Miller, Jo Ellen Carson, Doug Carson.

Dr. Becker opened with a brief review of the reason for the meeting, to discuss the proposed conditional use of Oak Park Center, Lot 1 B as an off site parking lot to relieve the parking stresses that continue to be a problem at River Valley Smile Center, 3224 Old Greenwood Road. Since the widening of Old Greenwood Road parking has been an issue for guests/patients and overflow/staff parking would relived some of this stress.

Mr and Mrs Carson asked questions regarding the position and extension of the parking lot relative to their residential property. A plat of the lot with the position of the proposed parking lot was displayed and approved by Mr and Mrs. Carson, noting that it would not extend toward the west down the hill and thus would not be visible from their residence.

Mrs Carson asked if signs could be posted on the street designating to motorists that there are numerous driveways/entries and that caution should be used. Mr. Miller suggested that be a question for the City of Fort Smith.

Mrs. Carson asked if the parking lot would be gravel and Dr. Becker reported yes, that gravel would be laid and parking blocks planned.

The meeting concluded with no objections on behalf of the Carsons.

12F

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 3224 Old Greenwood Rd, Ft. Smith AR 72903

Meeting Time & Date 6:00pm. ~~6:00~~ 7-1-13

Meeting Purpose Conditional Use

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1. <u>Tyler Miller</u>	<u>City of Fort Smith</u>	<u>479-784-2241</u>
2. <u>Jillie Carson</u>	<u>3226 Old Greenwood Rd.</u>	<u>479-431-8900 (mobile)</u>
3. <u>Don M. C.</u>	<u>" "</u>	<u>479-221-7570</u>
4. <u>Brad Becker</u>	<u>3305 Leigh's Hollow</u>	<u>479-221-6385</u>
5.		
6.		
7.		
8.		
9.		
10.		
11.		







# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 27, 2013

**Re:** Home Occupation #6-7-13 - A request by Bobby Williams and Javanna Releford for Planning Commission consideration of a digital music production business in a Transitional (T) zone at 2917 Old Greenwood Road

## LOT LOCATION AND SIZE

The subject property is located on the east side of Old Greenwood Road between Country Club Avenue and Boston Street. The tract contains an area of approximately 3.5 acres.

## EXISTING ZONING

The existing zoning on this tract is Transitional (T). Characteristics of this zone are as follows:

### Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

### Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

### Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.



opinion of the Planning Commission, those activities do not conflict with the purposes and objectives of this chapter as stated in Section 27-101 and provided such activities comply with this section as well as any conditions and limitations the Planning Commission deems necessary for any particular case in carrying out the spirit and intent of a section.

### **COMPATIBILITY/CONDITIONS**

The planning commission is not required to approve an application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood. The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

### **STAFF COMMENTS AND RECOMMENDATIONS**

In addition to Section 27-338-4F (Minimum Requirements for Consideration) Planning Staff recommends approval of the requested home occupation subject to the following:

1. The applicants shall not produce any noise or other offensive effects that are not normal to residential activity.
2. The business license cannot be transferred to another residence without a new Home Occupation Application.
3. No commercial trash container will be placed at the residence.
4. No sale of any retail or wholesale item or items shall take place on the premises.
5. See the attached Home Occupation requirements.
6. All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
7. The soundtrack business shall not violate City Ordinance 16-41 (Disorderly Conduct-Noise)

## HOME OCCUPATION REQUIREMENTS

### Sec. 27-338-4F. Minimum requirements for consideration

The planning commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment are allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.
10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.
11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

**APPLICATION FOR HOME OCCUPATION**

(Please print or type)

Name of Applicant: Bobby Williams Jr. / Jovanna Releford

Legal Description of property included in the home occupation request:

Apartment Complex (Cambridge Apartments) School District: 99FS  
Market : FCLVB  
Old Parcel : 32.89  
Legal Descript. : 27-08-32

Street Address of Property: 2917 OLD GREENWOOD RD. Suite #17

Zone Classification: T (Transitional)

Type of Business Requested: Music Sound track and Entertainment Company  
\* note = Sound tracks via Computer digital (DAW) Digital Auto  
Work station

Signed:

Bobby Williams Jr. / Jovanna Releford  
Applicant's Name (please print)

(479) 652-4847 / (479) 431-9513  
Phone Number of Applicant

2917 Old Greenwood Rd. Apt 28 Fort Smith AR.  
Applicant Mailing Address 72909

Bobby Williams Jr. / Jovanna Releford  
Applicant

5/24/13  
Date

[Signature]  
Property Owner

[Signature]  
Date

(if rental property)

Home Occ. # 6-7-13

**HOME OCCUPATION INFORMATION FORM**

1. Describe what type of business you are requesting. Digital Musical Production and Entertainment Promotion Company

2. Will this business be completely contained in the residential structure? Yes \_\_\_ No

If no, described location. The Entertainment Promotion will be in Local Venues

3. What percentage of the residential floor area will be required to operate the business?

30% or less / Area contains The computer, controllers, printers, and office  
(Page of Photo include Attachment A)

4. Will operation of the business utilize any persons other than members of the immediate household? Yes \_\_\_ No

5. At what hours and days of the week do you plan to operate the business? 9:00 am - 4:00 pm (Mon - Sat)

6. Will there be any noise No, odor No, or other outdoor activity No associated with the business? If yes, explain. veh. Dec. 15 (the sound of a computer starting up) 100 w Speaker / Dec. 15 / Earphones are used

7. Will materials or supplies be stored at this location? Yes  No \_\_\_

8. How much storage will be needed? 4 feet X 4 feet Closet

9. Will merchandise be sold at this location? Yes \_\_\_ No  If yes, explain. \_\_\_

Delivered by mail or internet

10. Will you have any business vehicles? Yes \_\_\_ No  If yes, describe below.

Type of Vehicle:

Make --- Model ---

Color --- Length (trailer) ---

11. Will this business require any license, certification, accreditation other than a city occupation license? Yes \_\_\_ No  What type? ---

12. Can you operate this business by appointment only? Yes  No \_\_\_

Explain: ---

13. Will customers come to this location? Yes  No  (Consultation and contract signing)

14. How many customers do you expect to have coming to your home at any one time?

2 clients / IF group, only 2 Representatives per group

15. Do you expect any drop-in customers? Yes  No  (security purposes)

16. How do you plan to provide parking for customers? We are allowed 2

parking spaces per apartment. We only use 1, so we will provide 1  
For the clients

17. Do you plan to advertise this business? Yes  No

If yes, by what methods? Internet (web site, YouTube, Sound click) Newspaper, radio.

18. Do you understand advertising the street address is not permitted? (Including the telephone directory listings.) Yes  No

19. Do you understand the utilization of a sign in conjunction with this business is not permitted? Yes  No

20. Will the Home Occupation require a commercial trash container (dumpster)?  
Yes  No

21. Do you own or rent this property? Rent

22. If renting, please attach a letter from the property owner giving you permission to operate this home occupation.

23. Do you live at this location? Yes  No

24. Do you understand that failure to comply with the home occupation requirements could constitute the revoking of the occupation license issued for this business?  
Yes  No

25. Provide any other information that you feel helpful.

We have attached a copy of our operational policy  
will be in compliance with the rules you have set.



# Letter of Owner's Permission (Please PRINT)

To the City of Fort Smith Planning Department:

I hereby grant my permission to Bobby Williams, Jr. to operate a business at  
(name of occupant)

2817 Old Greenwood. By signing this form, I verify that I am the owner  
(address)

of this property.

[Handwritten Signature]  
(Owner's Signature)

5/28/13  
(Date)

# BMPFG Inc.

## ENTERTAINMENT

### *Mission statement*

*B-man Production For God Incorporated is a company whose main mission is to spread the good news of Jesus Christ. We will carry out the great commission by producing quality music, and promoting Local and National artist who perform MOTIVATIONAL and LIFE music, increasing faith in the Creator and the building of self.*

*BMPFG has been established to promote CHRISTIAN RAP, CHRISTIAN R&B, CHRISTIAN ROCK, and any style that promotes LIFE and PROSPERITY.*

*We are also committed to conducting all fiscal affairs with fairness and integrity.*

*We are also committed to missions, supporting outreach programs and charities, ensuring that our youth will have a chance for a better future.*

# BMPFG

## Products and Services

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This document is a brief description of our products and services available to our clients. A Client is defined as one who is protected. We prefer the word client because it describes our relationship with our customers. We take pride in our religious stance as believers of Christ, which ensures that we administer our services with integrity and care. BMPFG's services are mainly targeted towards:

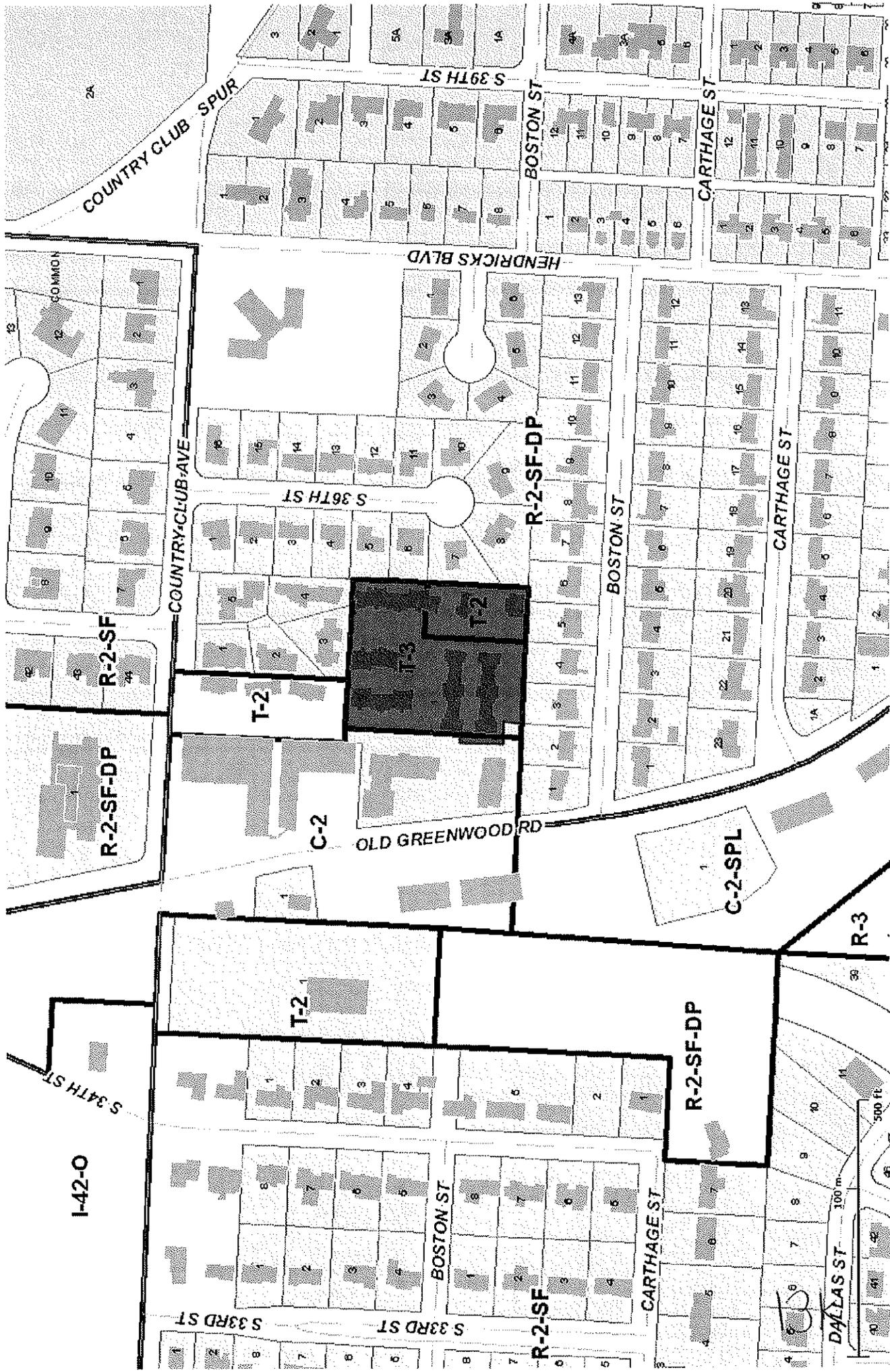
1. Music production of sound tracks for original songs:
  1. Compositions, (original songs for sale)
  2. Advertisement Jingles for business
  3. Sound tracks or beats for rap or R&B artist
  
2. DEMO Production Packages include:
  - 2 songs (CD and mp3 or wave file)
  - Photo session
  - Printed and video biography
  - Profile listed on our BMPFG Inc. Website
  
- 3.BMPFG Inc. Presents Events include: (location TBA)
  - Talent events
  - Concerts
  - Charity Benefits (negotiations applicable)
  - Party and Balls

\*note: All products and services will be closed via contract and invoice. BMPFG Inc. 2013

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# Home Occupation #6-7-13: Music sound track and entertainment company

2917 Old Greenwood Road Suite 7



ATTACHMENT A





13M

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 25<sup>th</sup>, 2013

**Re:** Variance #18-7-13 - A request by Ronnie Hart, agent, for Board of Zoning Adjustment consideration of a zoning variance request from 12' to 10' minimum drive lane width and from the required passing lane for a drive-thru window (Companion to item # 9)

## LOT LOCATION AND SIZE

The subject property is on the east side of South 74<sup>th</sup> Street between Rogers Avenue and Dallas Street. The tract contains an area of 1.07 acres with approximately 237 feet of street frontage along South 74<sup>th</sup> Street.

## EXISTING ZONING

The existing zoning on this tract is Commercial Light (C-2) and Commercial Heavy (C-5). The characteristics of each zone are as follows.

Commercial Light (C-2).

Characteristics of this zone are as follows:

### Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

- Minimum Lot Size – 7,000 square feet (1+1)
- Maximum Building Size – 30,000 square feet 60%
- Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet
- Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)
- Minimum Lot Width – 50 feet
- Minimum Street Frontage – 20 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 10 feet
- Side Yard Setback – 10 feet
- Rear Yard Setback - 10 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Collector or higher

Commercial Heavy (C-5).  
Characteristics of this zone are as follows:

**Purpose:**

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

**Permitted Uses:**

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

**Conditional Uses:**

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
(1+1)

Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 20 feet

Rear Yard Setback - 20 feet

Side/Rear (adjoining SF Residential District/Development) – 30 feet

Minimum building separation – to be determined by current City building and fire code.

Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Commercial Light (C-2) and is developed as a Dental Office.

The area to the east are zoned Commercial Heavy (C-5) and are developed as a motel.

The area to the south is zoned Commercial Light (C-2) and is developed as a restaurant.

The area to the west is zoned Transitional (T) and is developed as Mercy hospital.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies South 74<sup>th</sup> Street as Major Arterial.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance. A companion conditional use application for the drive

**REQUESTED VARIANCE**

The variance will be from the required passing lane for a drive-thru, and from 12' to 10' minimum drive lane width.

14C

### **APPLICANT HARDSHIP**

The applicant states that without a drive-thru the existing café will continue to have diminishing sales and by adding a drive-thru it will allow for Panera customers to stay competitive in the market. Furthermore, the applicant states that a drive-thru use can be added in the remaining side yard of the existing site by utilizing a 10' drive lane verses the required 12' lane and explains that other cafes have only one drive lane without the passing aisle without defects.

### **STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held on Wednesday June 26<sup>th</sup>, 2013 onsite at 2917 South 74<sup>th</sup> Street. Three people were present at the neighborhood meeting. The north property owner had no objections to the drive-thru with a screened fence installed, and as long as the property owner's trees were to remain intact. A copy of the attendance record and meeting summary are enclosed.

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

Staff recommends approval of the application or for the reasons stated in the staff report and contingent upon the following.

1. All construction must be built in accordance with the submitted Development Plan.
2. All exterior lighting shall not produce glare, light trespass (nuisance light) and/or unnecessary sky glow. This will be verified during building permit plan review.
3. All new signs will require a separate plan review and building permit.
4. Install a sign advising patrons that there is no passing lane for the drive thru window.

Var. # 18-7-13

**APPLICATION FOR VARIANCE**

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 2917 S. 74th St. (Existing)\_\_\_\_, Existing or Proposed

Zoning Classification \_\_ C-2 and C-5 \_\_\_\_\_, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

**FROM**

**TO**

- \_\_\_\_\_ - \_\_\_\_\_ Front Yard Setback or Minimum Distance from Right-of-Way
- \_\_\_\_\_ - \_\_\_\_\_ Exterior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Interior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign

\_\_\_12' - \_\_\_10'\_\_\_ Other: Drive way width, and from required passing lane for drive thru window

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

14E

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed:

Ronnie Hart - Agent

\_\_\_\_\_  
Owner or Agent Name (please print)

918-850-0755

\_\_\_\_\_  
Owner or Agent Phone Number

1624 E. 15th st. Tulsa, OK 74120

\_\_\_\_\_  
Owner or Agent Mailing Address

  
\_\_\_\_\_  
Agent :Signature

Variance # \_\_\_\_\_

**VARIANCE INFORMATION FORM**

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u>  X  </u>	_____	Is this variance needed because of previous actions taken by yourself?
_____	<u>  X  </u>	Is this variance needed because of previous actions taken by a prior owner?
_____	<u>  X  </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u>  X  </u>	_____	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	<u>  X  </u>	Is the lot of an odd or unusual shape?
_____	<u>  X  </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<u>  X  </u>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<u>  X  </u>	Is any part of the lot in a flood plain or flood way?
_____	<u>  X  </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<u>  X  </u>	Is the lot developed with structures in violation of current zoning requirements?
_____	<u>  X  </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

Existing site does not have the required space at the back of the building to add a drive thru use. This is an allowable use by code. By not have the drive thru operation the existing cafe will continue to have diminishing sales. Adding the drive thru convenience for our customers will allow Panera to stay competitive in the market place and increase revenue to continue to support the community.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

A drive thru use can be added in the remaining side yard of the existing site by utilizing a 10' drive lane versus the required 12'. The required passing lane has not been a detriment to other cafes that have only the drive lane.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

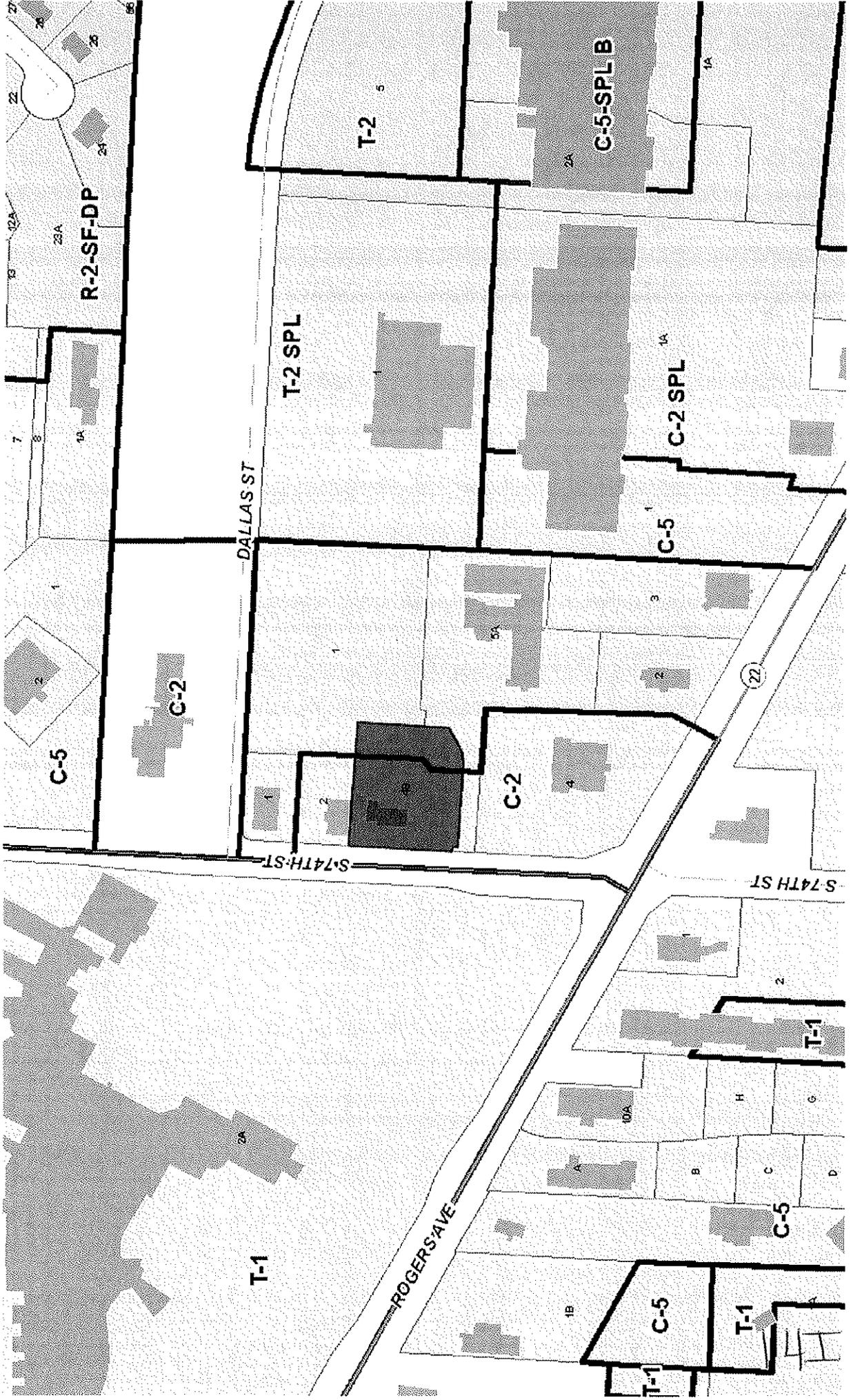
\_\_\_\_\_ The existing site does not allow the required 12' lane and 12' passing since there is not enough property to the North. There also is not a reasonable opportunity to add more property on this side of the site.

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Variance #18-7-13: From 12' to 10' width of drive thru lane and from the requirement of a passing aisle for drive thru window

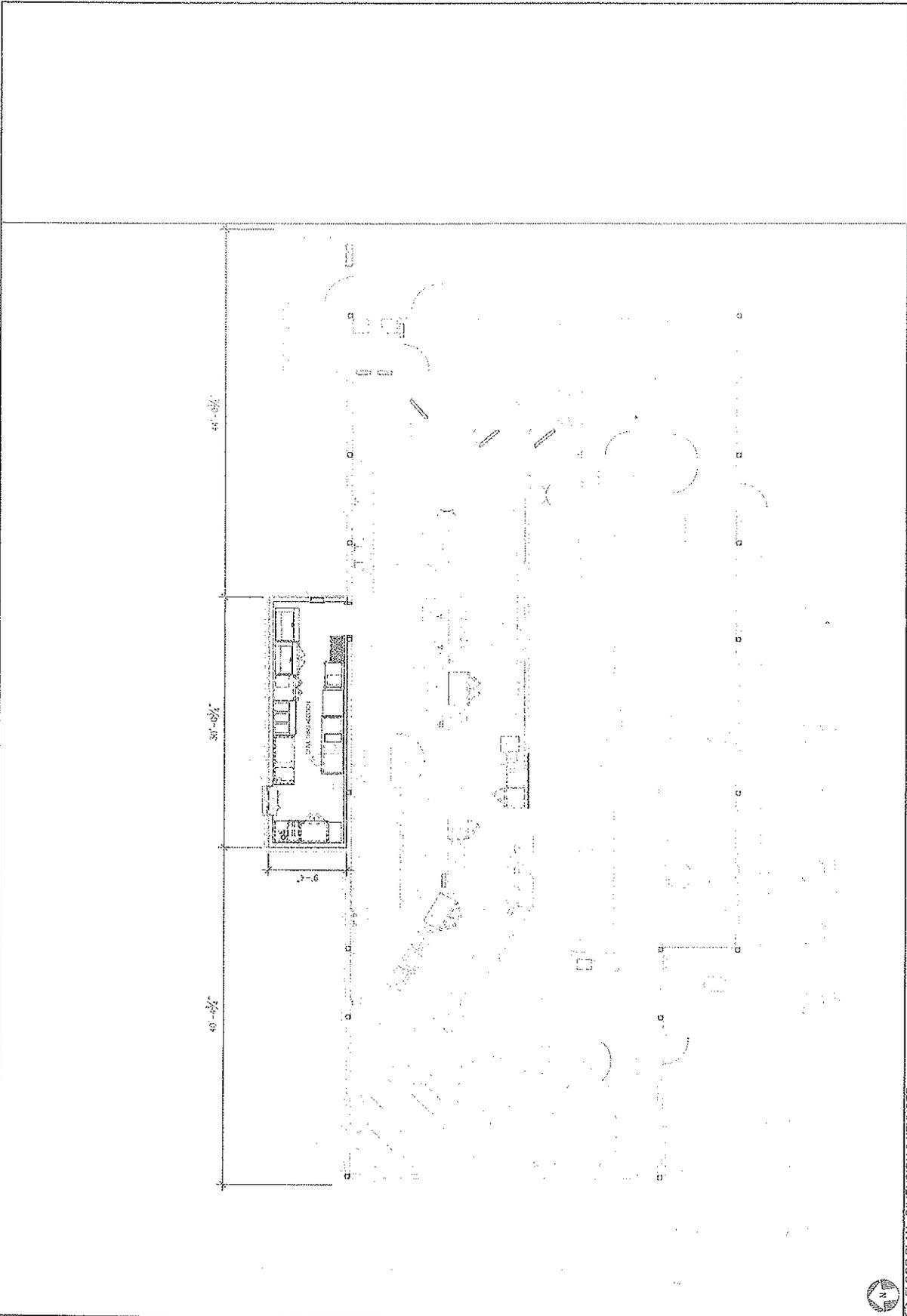
2917 South 74th Street







BAKERY CAFE <b>#2809</b> <small>ARCHITECTURE INC.</small>	 DENNIS D SMITH, AIA <small>ARCHITECT</small> 240 HUNTERS LANE SUITE 100 FORT SMITH, AR 72903	 PANERA BAKERY Cafe #2809 2917 S. 74th St. Fort Smith, AR 72903	PLANNING        	REVISION        	ISSUE DATE: 05-14-13 DRAWING NUMBER: 2809-01 DRAWING TITLE: BAKERY CAFE SHEET NUMBER: 1	SHEET NO: <b>A-2.0</b> DESCRIPTION
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11  
 FLOOR PLAN - DIMENSION & KEYNOTE

BAKERY CARE  
#2809  
11/18/14/2014



Blank space for notes or stamps.

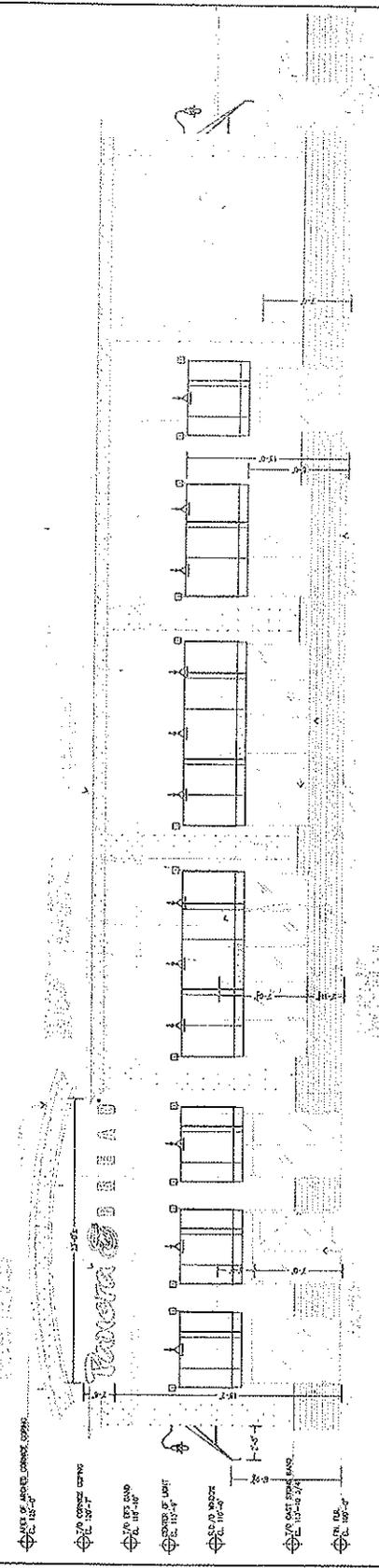
PANERA BAKERY  
Cafe #2809  
2017 S 74th St  
Fort Smith, AR 72903

PLANNING

REVISION

DATE: 11/18/14  
BY: [Signature]  
CHECKED: [Signature]

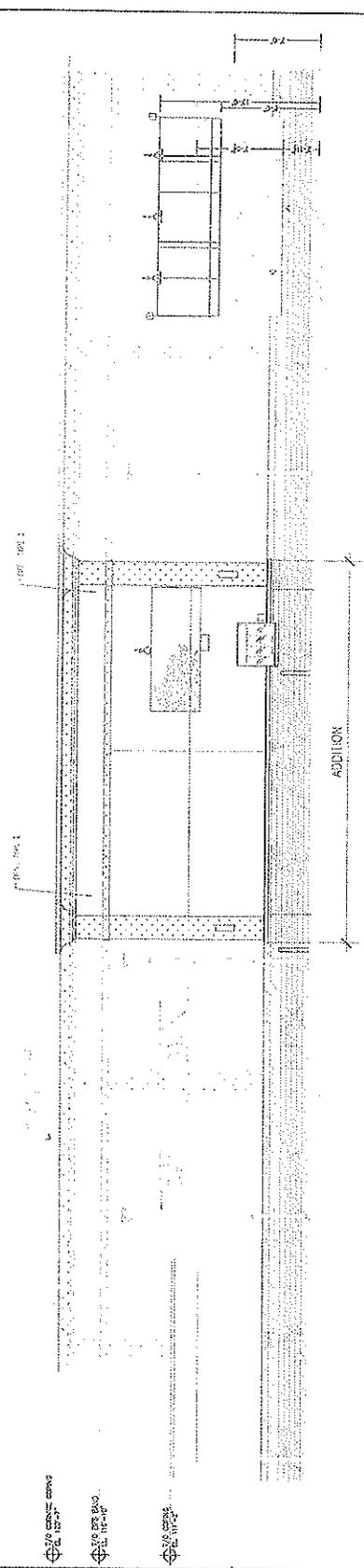
SHEET NO  
A-3.0  
PANEL ELEVATIONS



1. ELEVATION - SOUTH  
SCALE: 1/4" = 1'-0"

SUBMIT ALL SIGN SHOP  
DRAWINGS TO ROBERT MUELLER  
FOR APPROVAL:  
FAX - 514-633-7244

- 1/2" x 1/2" METAL PANELS - 1/2" METAL  
CONCRETE OR 1/2" x 1/2" METAL  
ALUMINUM PANELS - 1/2" METAL  
CONCRETE OR 1/2" x 1/2" METAL
- 1/2" x 1/2" METAL PANELS - 1/2" METAL  
CONCRETE OR 1/2" x 1/2" METAL  
ALUMINUM PANELS - 1/2" METAL  
CONCRETE OR 1/2" x 1/2" METAL
- 1/2" x 1/2" METAL PANELS - 1/2" METAL  
CONCRETE OR 1/2" x 1/2" METAL  
ALUMINUM PANELS - 1/2" METAL  
CONCRETE OR 1/2" x 1/2" METAL



1. ELEVATION - NORTH  
SCALE: 1/4" = 1'-0"

14M

**SI. SMITH, AR SIGNAGE SUMMARY**

**BUILDING SIGNAGE:**

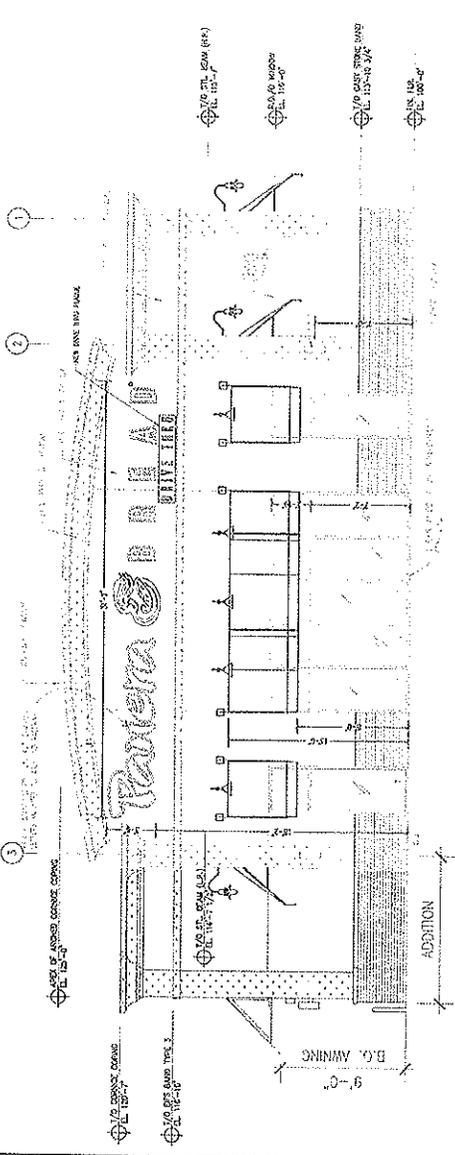
MARKER	DESCRIPTION	HEIGHT
1	WEST SIGNAGE 1	10' 0" - 12' 0"
2	SOUTH SIGNAGE 1	10' 0" - 12' 0"
3	EAST SIGNAGE 1	10' 0" - 12' 0"
4	WEST SIGNAGE 2	10' 0" - 12' 0"
5	SOUTH SIGNAGE 2	10' 0" - 12' 0"
6	EAST SIGNAGE 2	10' 0" - 12' 0"
7	WEST SIGNAGE 3	10' 0" - 12' 0"
8	SOUTH SIGNAGE 3	10' 0" - 12' 0"
9	EAST SIGNAGE 3	10' 0" - 12' 0"

**POLE SIGN:**

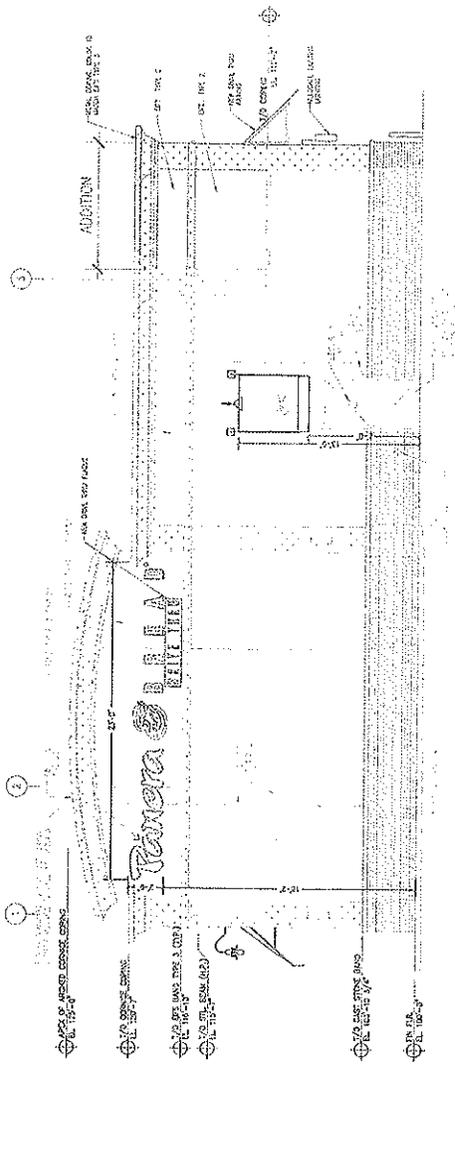
ALL SIGNS TO BE 10' TO 12' HIGH / WEST SIGNAGE (APPROX. 10')

ONE - APPROX. 6' IS SIGN.

- BRICK: 1. LOCAL BRICK IN. 2. BRICK IN. 3. BRICK IN. 4. BRICK IN. 5. BRICK IN. 6. BRICK IN. 7. BRICK IN. 8. BRICK IN. 9. BRICK IN. 10. BRICK IN.
- GLASS: 1. CLEAR GLASS. 2. TINTED GLASS. 3. BRICK IN. 4. BRICK IN. 5. BRICK IN. 6. BRICK IN. 7. BRICK IN. 8. BRICK IN. 9. BRICK IN. 10. BRICK IN.
- PAINT: 1. BRICK IN. 2. BRICK IN. 3. BRICK IN. 4. BRICK IN. 5. BRICK IN. 6. BRICK IN. 7. BRICK IN. 8. BRICK IN. 9. BRICK IN. 10. BRICK IN.
- ROOF: 1. BRICK IN. 2. BRICK IN. 3. BRICK IN. 4. BRICK IN. 5. BRICK IN. 6. BRICK IN. 7. BRICK IN. 8. BRICK IN. 9. BRICK IN. 10. BRICK IN.



1 ELEVATION - WEST  
 SCALE: 1/4" = 1'-0"



2 ELEVATION - EAST  
 SCALE: 1/4" = 1'-0"

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Panera Bread 2917 South 74<sup>th</sup> St.

Meeting Time & Date 1/24/2013 1:pm Cst

Meeting Purpose Discuss Drive Thru Addition to Panera Bread

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Tyler Miller</u>	<u>city of Fort Smith</u>	<u>fmiller@fortsmithar.gov</u> <u>479-784-2241</u>
2.	<u>Shannawhite</u>	<u>Panera Bread</u>	<u>479-478-8989</u>
3.	<u>Ronnie Hart</u>	<u>1224 E 15<sup>th</sup> Street Tulsa, OK 74012</u>	<u>918-852-0755</u>
4.	<u>Becky (came for Dr. m...)</u>	<u>2913 S 74<sup>th</sup> St, Fort Smith, Arkansas</u>	<u>479-484-5030</u>
5.			
6.			
7.			
8.			
9.			
10.			
11.			

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Panera Bread 2917 South 74<sup>th</sup> St.

Meeting Time & Date 6/24/2013 1:pm Cst

Meeting Purpose Discuss Drive Thru Addition to Panera Bread

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<u>Tyler Miller</u>	<u>city of Fort Smith</u>	<u>fmiller@fortsmithar.gov</u> <u>479-784-2241</u>
2.	<u>Shannattal</u>	<u>Panera Bread</u>	<u>479-478-8989</u>
3.	<u>Ronnie Hart</u>	<u>1224 E 15<sup>th</sup> Street Tulsa, OK 74012</u>	<u>918-852-2735</u>
4.	<u>Becky (Came for Dr. Moore)</u>	<u>2913 S 74<sup>th</sup> St, Fort Smith, Arkansas</u>	<u>479-484-5030</u>
5.			
6.			
7.			
8.			
9.			
10.			
11.			

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 26, 2013

**Re:** Variance #19-7-13 - A request by Juan Martinez, agent, for Board of Zoning Adjustment consideration of a zoning variance request from 120 to 240 maximum number of days for a seasonal permit at 3403 South 74<sup>th</sup> Street

## LOT LOCATION AND SIZE

The subject property is on the east side of South 74<sup>th</sup> Street, north of Madison Avenue and south of Rogers Avenue. The tract has approximately 415 feet of street frontage along South 74<sup>th</sup> Street.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

### Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

15A

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet  
Minimum Lot Width – 100 feet  
Front Yard Setback - 25 feet  
Side Yard on Street Side of Corner Lot - 15 feet  
Side Yard Setback – 20 feet  
Rear Yard Setback - 20 feet  
Side/Rear (adjoining SF Residential District/Development) – 30 feet  
Minimum building separation – to be determined by current City building and fire code.  
Required street access – Minor Arterial or higher

Maximum Height - 45 feet (1+1)  
Maximum Lot Coverage - 75%

**SURROUNDING ZONING AND LAND USE**

The areas to the north are zoned Commercial Heavy (C-5) and are developed as offices and retail.

The area to the east is zoned Commercial Heavy (C-5) and is developed as Sam’s Club.

The areas to the south are zoned Commercial Heavy (C-5) and Commercial Heavy Special (C-5 SPL) and are developed as Arvest Bank and a hotel.

The areas to the west are zoned Commercial Heavy (C-5) and are developed as a restaurant and a car wash.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies South 74<sup>th</sup> Street as Major Arterial.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance.

**REQUESTED VARIANCE**

If the variance is approved it would allow the applicant to operate a snow cone stand at Harp’s Food Store for 240 days instead of 120 days as currently permitted.

**APPLICANT HARDSHIP**

The applicant states that the 120 day seasonal permit is too short to cover the entire summer season for a snow cone business.

15B

**STAFF COMMENTS AND RECOMMENDATIONS**

A neighborhood meeting was held Monday, July 1, 2013 at 3403 South 74<sup>th</sup> Street. No adjacent property owners attended the meeting. There were no objections to the proposed project or explain the objections.

If the BZA is inclined to approve this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

**APPLICATION FOR VARIANCE**

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

*1 of 4 1st place addition.*

Address of property 3403 South 74th, Existing or Proposed

Zoning Classification C5, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

**FROM**

**TO**

- \_\_\_\_\_ - \_\_\_\_\_ Front Yard Setback or Minimum Distance from Right-of-Way
- \_\_\_\_\_ - \_\_\_\_\_ Exterior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Interior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage

\_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign  
*section 27-327 length of time for a seasonal permit from 120 days to 240 day*  
 Other: Extend the 120 day seasonal permit

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

150

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed:

Juan C. Martinez  
Owner or Agent Name (please print)

\_\_\_\_\_  
Owner

(479) 459-6323  
Owner or Agent Phone Number

or  
Juan Martinez  
Agent

4821 S. V St Fort Smith AR  
Owner or Agent Mailing Address 7290 3

Variance # \_\_\_\_\_

**VARIANCE INFORMATION FORM**

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by yourself?
_____	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by a prior owner?
<input checked="" type="checkbox"/>	_____	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
_____	<input checked="" type="checkbox"/>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	<input checked="" type="checkbox"/>	Is the lot of an odd or unusual shape?
_____	<input checked="" type="checkbox"/>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<input checked="" type="checkbox"/>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<input checked="" type="checkbox"/>	Is any part of the lot in a flood plain or flood way?
_____	<input checked="" type="checkbox"/>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<input checked="" type="checkbox"/>	Is the lot developed with structures in violation of current zoning requirements?
_____	<input checked="" type="checkbox"/>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

15F

Explanation of question #4 (if applicable)

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2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

*The time of 120 day for a seasonal permit is too short to cover the entire summer season for a snow cone business.*

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

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LICENSE AGREEMENT

This License Agreement is made this 13th day of March, 2013 between HARP'S FOOD STORES, INC., hereinafter called Licensor and Sno to Go, Juan G. Martinez, 4821 South "V" Street, Fort Smith, AR 72903 hereinafter called Licensee.

1. Licensee shall place upon Licensor's property located at 3403 South 74<sup>th</sup> Street in Fort Smith, Arkansas one portable 8' X 18' building for the purpose of selling shaved ice which structure shall comply with all city and state codes relating to zoning, health, public safety, food safety and sanitation, and utility restrictions.
2. Licensee shall supply to Licensor an insurance certificate evidencing minimum public liability limits of \$1,000,000 single limit bodily & property damage. Licensor shall not be responsible for accident or injury occurring at, about or upon Licensee's licensed premises or as a result of any Licensee activity and hereby agrees to fully indemnify and hold Licensor harmless from any such responsibility, costs or expenses, including reasonable attorneys fees. Licensor shall not be responsible for Licensee's property. Licensee accepts full responsibility or risk of loss to its own property.
3. Licensee shall be responsible for all utility accounts incurred by Licensee at the leased site.
4. This License Agreement shall be in effect from March 15, 2013 through October 15, 2013.
5. Licensee shall pay to Licensor rent in the sum of \$500.00 per month, payable in advance on the first day of each calendar month during the term of this Agreement. Rent for any partial month shall be paid at a rate of \$16.67 per day for the partial month. **Rent shall be paid by check made payable to Harps Food Stores, Inc. and mailed to P.O. Box 48, Springdale, AR 72765 to Attention: Sarah Hopper.** A late charge of \$25.00 shall be assessed and payable by Licensee if the rent payment is not received by the tenth calendar day of the month.
6. Licensee agrees to keep the licensed premises occupied by it in a clean and orderly condition free of all debris attributable to its operation.
7. The parties hereto agree that this License Agreement shall not constitute a deed, sub-lease, or grant of easement and shall not be deemed an easement by virtue of any work performed by any parties.
8. Licensee may not assign, sublet or transfer this License Agreement to another party without written consent of Licensor.
9. Either party shall have the right to terminate this Agreement at any time for any reason by giving thirty (30) days written notice by certified mail of its intention to terminate. Licensee shall vacate the licensed premises on or before the end of the thirty-day notice period and return the licensed premises to the same condition as prior to Licensee's occupation under this agreement. Reasonable wear and tear excluded.

LICENSOR:

HARP'S FOOD STORES, INC.

BY: Kim B. Eskew  
Kim Eskew, President

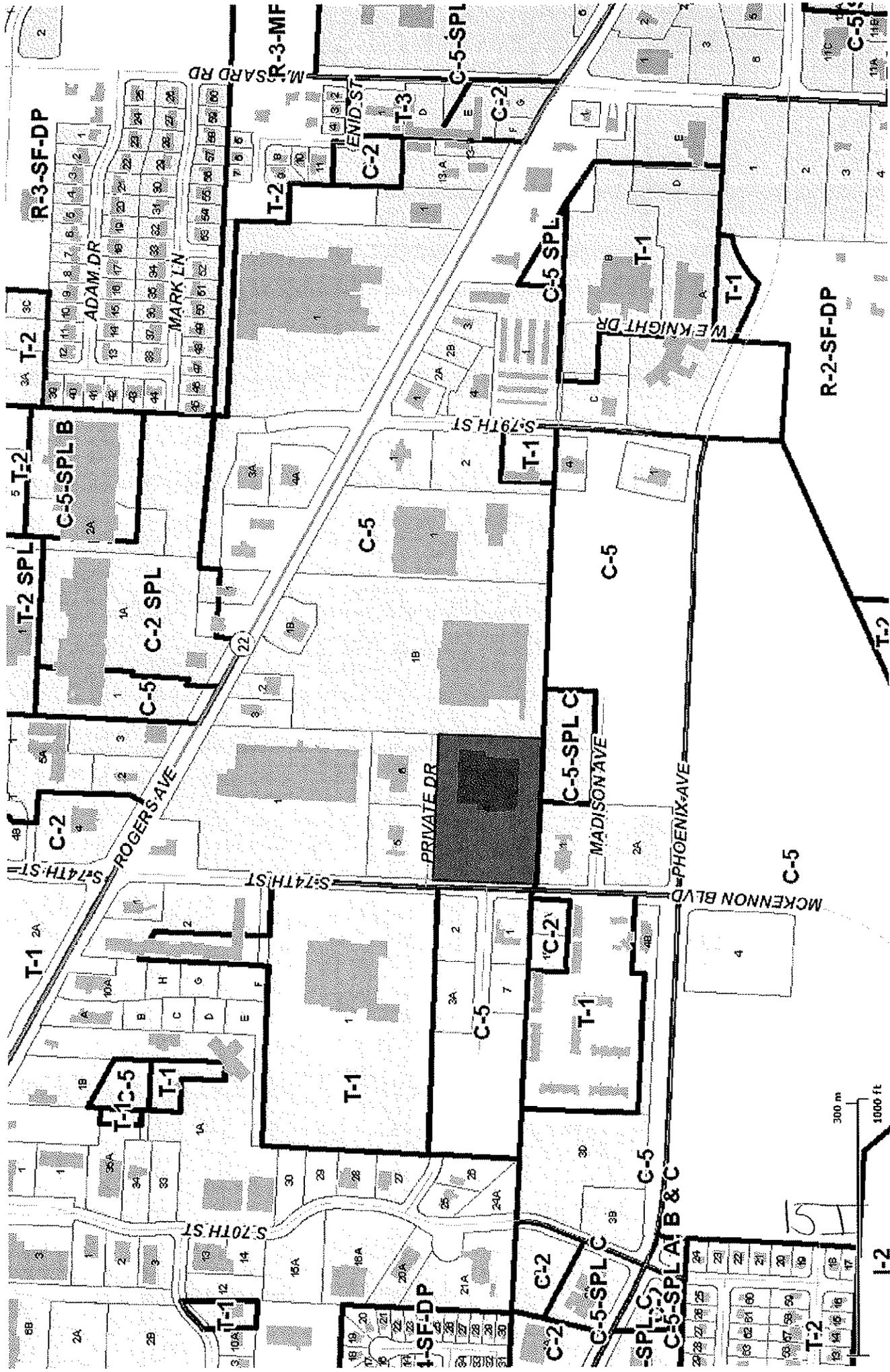
LICENSEE:

SNO TO GO

BY: Juan G. Martinez  
Juan G. Martinez

# Variance #19-7-13: From Section 27-327 - Length of time for a seasonal permit from 120 days to 240 days

3403 South 74th Street



# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 26<sup>th</sup>, 2013

**Re:** Variance #20-7-13 - A request by Travis Brisendine, agent for Arvest Bank, for Board of Zoning Adjustment consideration of a zoning variance request from 15' to 10' street side setback at 5000 Rogers Avenue

## LOT LOCATION AND SIZE

The subject property is on the South side of Rogers Avenue between South P Street and South S Street. The tract contains an area of 0.96 acres with approximately 1128 feet of street frontage along Rogers Avenue and 635 feet of street frontage along South S Street.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

### Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

16A

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
(1+1)

Maximum Height - 45 feet

75%

Maximum Lot Coverage -

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 20 feet

Rear Yard Setback - 20 feet

Side/Rear (adjoining SF Residential District/Development) – 30 feet

Minimum building separation – to be determined by current City building and fire code.

Required street access – Minor Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Commercial Regional (C-4) and is developed as the Central Mall.

The area to the east is zoned Commercial Light (C-2) and is developed as a bank.

The areas to the south are zoned Commercial Heavy (C-5) and are developed as retail sales and an AOG facility.

The area to the west is zoned Commercial Heavy and is developed as the Quarry shopping Center.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Rogers Avenue as a Major Arterial and South S Street as a local road.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as Regional Center. This classification is intended to provide for major destination clustering of major employers, retailers, entertainment and regional level services of all types in a walkable setting. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance.

**REQUESTED VARIANCE**

Approval of the application will allow a 10' side-yard setback for the installation of an approximate 10' x 5' Handi-Hut Shelter to be installed on the south side of the property adjacent to South S Street. The smoking shelter will protect employees from the weather elements.

16B

**APPLICANT HARDSHIP**

The owner would like to remove the existing shelter near the building and construct a new shelter further from the building and existing utility facilities.

**STAFF COMMENTS AND RECOMMENDATIONS**

In the planning staff's opinion, the proposed shelter's encroachment into the side-yard setback will have no effect will have no negative effects.

If the BZA is inclined to approve this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

**APPLICATION FOR VARIANCE**

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 5000 rogers avenue, Existing or Proposed

Zoning Classification C-5, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<b><u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u></b>

**FROM**

**TO**

\_\_\_\_\_ - \_\_\_\_\_ Front Yard Setback or Minimum Distance from Right-of-Way

~~15 - 10 Exterior Side Yard Setback~~

\_\_\_\_\_ - \_\_\_\_\_ Interior Side Yard Setback

\_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback

\_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure

\_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot

\_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)

\_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage

\_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign

15 - 10 Other: ~~street side setback~~ street side setback

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed:

Travis Brisendine  
Owner or Agent Name *(please print)*

\_\_\_\_\_  
Owner

B Box 10069 FS 72917  
Owner or Agent Phone Number

or  
  
\_\_\_\_\_  
Agent

452-1133  
Owner or Agent Mailing Address

Variance # \_\_\_\_\_

16E

**VARIANCE INFORMATION FORM**

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	<u>  x  </u>	Is this variance needed because of previous actions taken by yourself?
_____	<u>  x  </u>	Is this variance needed because of previous actions taken by a prior owner?
<u>  x  </u>	_____	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
_____	<u>  x  </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	<u>  x  </u>	Is the lot of an odd or unusual shape?
_____	<u>  x  </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<u>  x  </u>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<u>  x  </u>	Is any part of the lot in a flood plain or flood way?
_____	<u>  x  </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<u>  x  </u>	Is the lot developed with structures in violation of current zoning requirements?
_____	<u>  x  </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

16 F

Explanation of question #4 (if applicable)

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2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

Owner would like to remove the existing smoking shack near the building and construct a new structure further from the building and away from the existing utility facilities near the current location.

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3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

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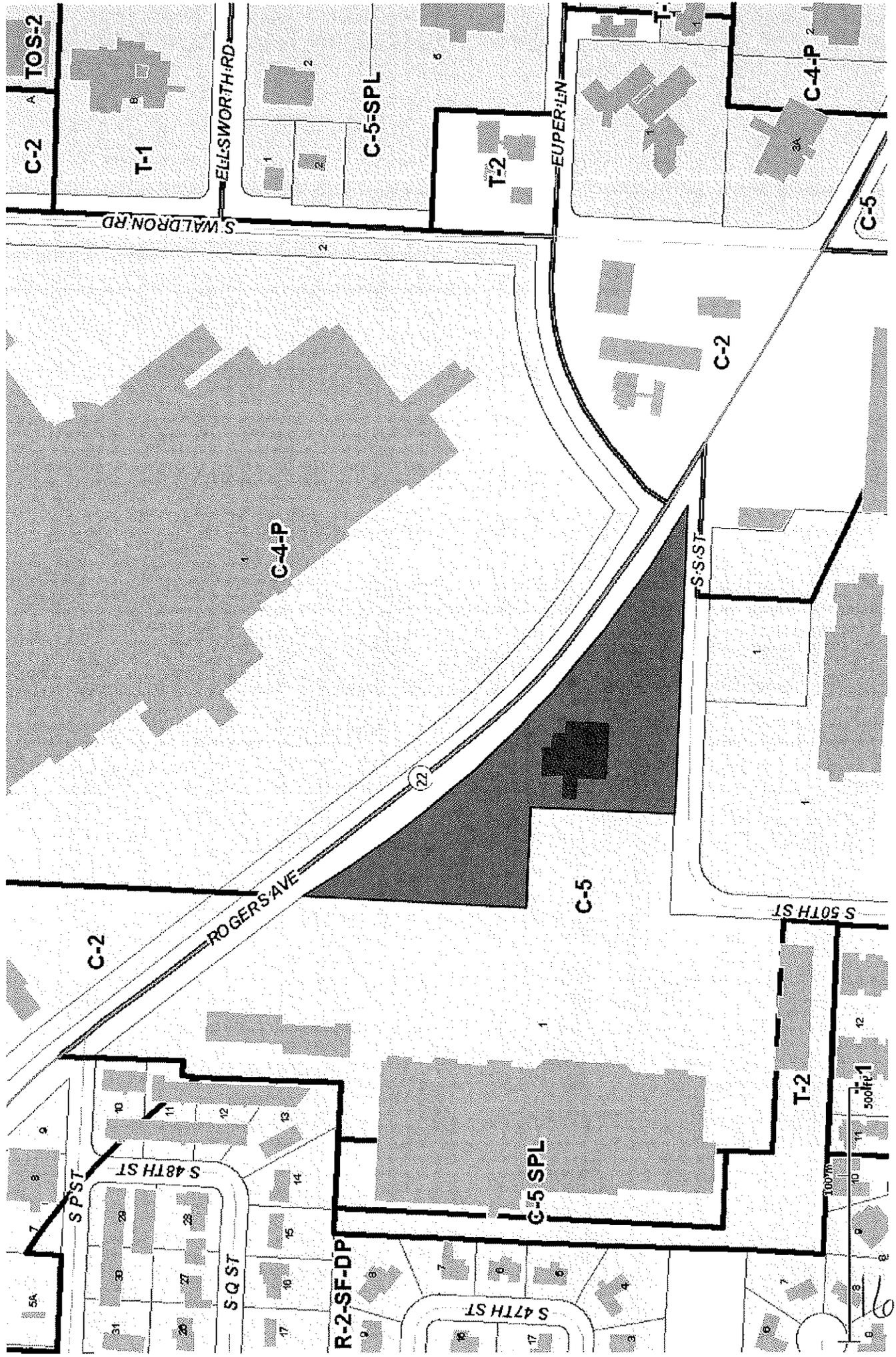
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126G

# Variance #20-7-13: From 15' to 10' Street Side Setback

5000 Rogers Avenue





# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 25, 2013

**Re:** Variance #21-7-13 - A request by Travis Brisendine, agent for Umarex USA, for Board of Zoning Adjustment consideration of a zoning variance request from Section 27-602-4(E)(4) & Section 27-602-4(E)(5) Industrial Building Standards at 7700 Chad Colley Boulevard (Companion to item #6)

## LOT LOCATION AND SIZE

The subject property is located on the west side of Chad Colley Boulevard between Roberts Boulevard and Custer Boulevard. The tract contains an area of 27 acres with approximately 1,332 feet of street frontage along Chad Colley Boulevard.

## EXISTING ZONING

The existing zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

### Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

### Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

### Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling

center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 20,000 square feet  
(1+1)

Maximum Height - 45 feet

Maximum Lot Coverage -

75%

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

**SURROUNDING ZONING AND LAND USE**

The area to the north is not zoned and is undeveloped.

The area to the east is not zoned and is developed as an animal food processing plant (Mars Pet Care).

The area to the south is not zoned and is developed as a contractor shop.

The area to the west is not zoned and developed with warehouse structures.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Chad Colley Boulevard as a Boulevard.

**LAND USE PLAN COMPLIANCE**

The *Chaffee Crossing Redevelopment Plan* currently classifies the site as Mixed Use Industrial Office. This classification is intended to create commercial, industrial, office, institutional and technical developments that are connected to surrounding land uses via a multi-modal transportation network that binds Chaffee Crossing community. Approval of the variance will not conflict with the goals and objectives of the Chaffee Crossing Redevelopment Plan. A companion development plan application has been submitted for Planning Commission review.

**REQUESTED VARIANCE**

Approval of the applicant’s application will permit a variance from the industrial design guidelines that require a 2:12 roof pitch and screening the existing trash compactor.

17B

### **APPLICANT HARDSHIP**

The applicant states that the compactor is a large roll off compactor that was placed on the site during the initial construction. The compactor is located 360 feet from the right-of-way located on a concrete tarmac with large truck trailers parked next to it. Also, a berm was constructed along Chad Colley Boulevard during initial construction to minimize the views of the tarmac. Regarding the 2:12 roof pitch, the applicant states that the intent is to match the exiting building to the greatest extent possible. The applicant also states that visibility of the roof on the expansion will be minimal due to the 40' distance from Chad Colley Boulevard.

### **STAFF COMMENTS AND RECOMMENDATIONS**

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

The Chaffee Crossing Design Review Committee has reviewed and approved both variances. Staff recommends approval of the application based on the approvals that were made during the May 14<sup>th</sup> Planning Commission meeting and with the following comments:

- Approval of the companion Development Plan application.

**APPLICATION FOR VARIANCE**

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 7700 Chad Colley Boulevard, Existing or Proposed

Zoning Classification I-1, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<b><u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u></b>

**FROM**

**TO**

- \_\_\_\_\_ - \_\_\_\_\_ Front Yard Setback or Minimum Distance from Right-of-Way
- \_\_\_\_\_ - \_\_\_\_\_ Exterior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Interior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign
- \_\_\_\_\_ - \_\_\_\_\_ Other: \_\_\_\_\_

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed:

TRAVIS BRISNDINE  
Owner or Agent Name (please print)

\_\_\_\_\_  
Owner

452-1933  
Owner or Agent Phone Number

or  
T. Brindine  
Agent

Po Box 10064, 72917  
Owner or Agent Mailing Address

Variance # \_\_\_\_\_

**VARIANCE INFORMATION FORM**

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	<u>  x  </u>	Is this variance needed because of previous actions taken by yourself?
_____	<u>  x  </u>	Is this variance needed because of previous actions taken by a prior owner?
<u>  x  </u>	_____	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u>  x  </u>	_____	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	<u>  x  </u>	Is the lot of an odd or unusual shape?
_____	<u>  x  </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<u>  x  </u>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<u>  x  </u>	Is any part of the lot in a flood plain or flood way?
_____	<u>  x  </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<u>  x  </u>	Is the lot developed with structures in violation of current zoning requirements?
_____	<u>  x  </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

Trash receptacle screening - Existing compactor is a large rolloff compactor that was placed during initial site construction. It is located approximately 360 feet from the R/W and is located on the concrete tarmac with large trailers parked along side it most of the time. A berm was also constructed along Chad Colley Boulevard during initial construction to minimize views of the tarmac.  
Primary roof structure screening - The intent of the project is to match the existing building which does not have roof screening. the expansion will also be taller and visibility of the roof would be difficult as there is an elevation difference of approximately 40 feet from the roof to Chad Colley.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

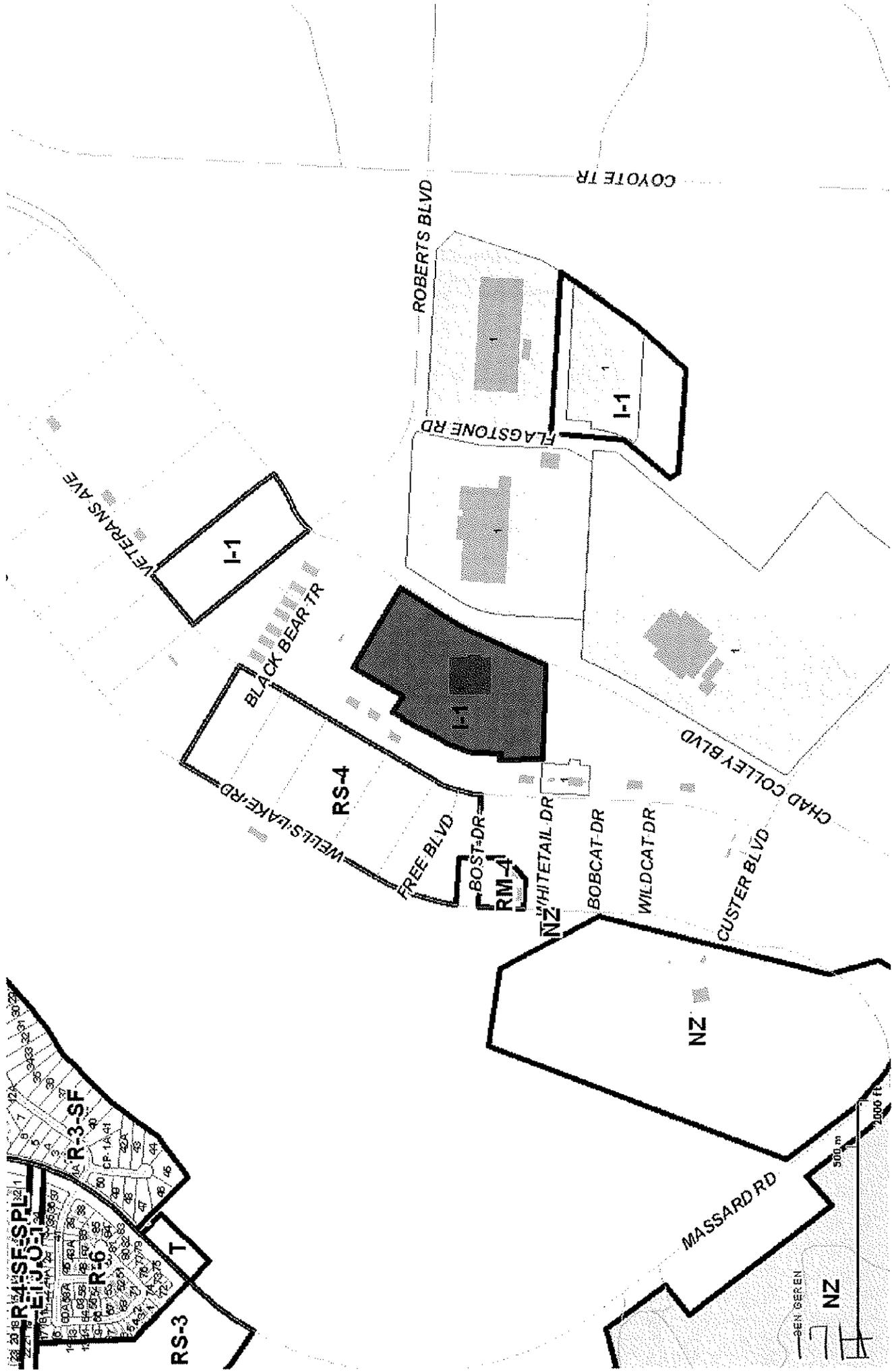
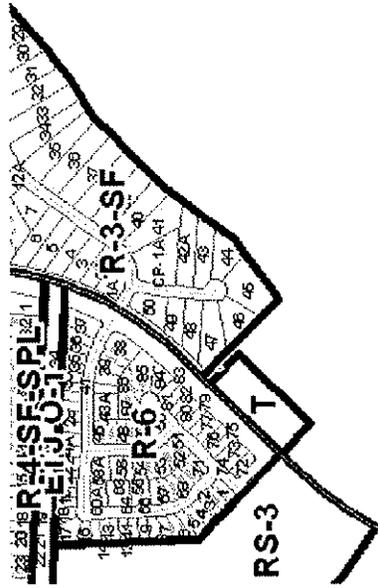
see explanation above....  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

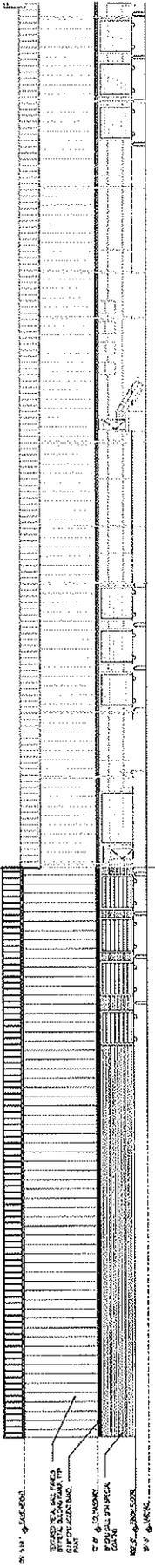
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Variance #21-7-13: From Section 27-602-4(E) - Roof pitch screening and trash receptacle screening

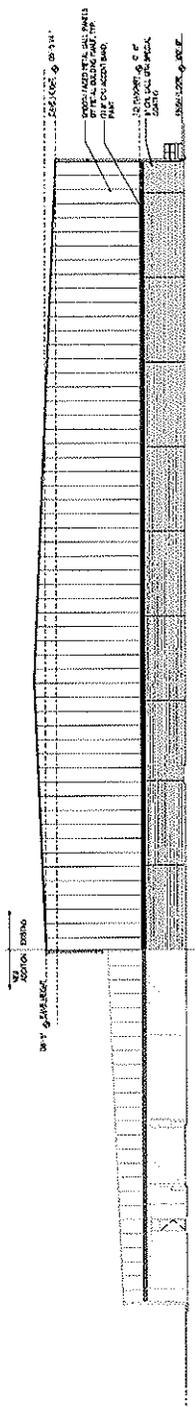
7700 Chad Colley Boulevard



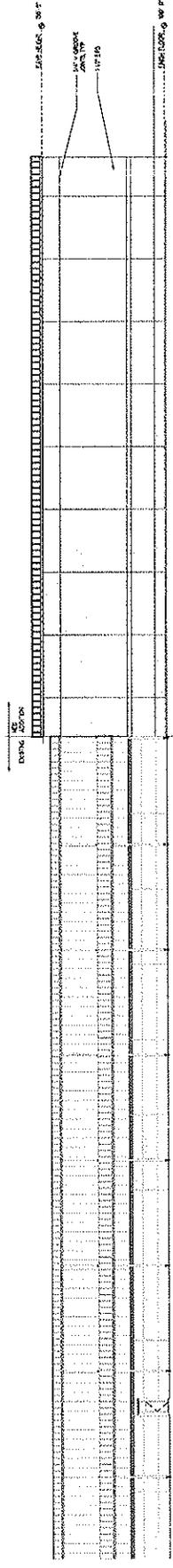




**(K14)** South Elevation  
 REF: A4.1.1



**(F14)** West Elevation  
 REF: A4.1.1



**(B14)** North Elevation  
 REF: A4.1.1

Handwritten initials: JL

# Memo

**To:** City Planning Commission

**From:** Planning Staff

**Date:** June 26, 2013

**Re:** Variance #22-7-13 - A request by Craig Roberts, agent, for Board of Zoning Adjustment consideration of a zoning variance request from 250' to 150' minimum distance from residentially zoned or developed property at 4801 Phoenix Avenue (4896 I-540) (Companion to item #12)

## LOT LOCATION AND SIZE

The subject property is on the north side of Phoenix Avenue across from South 46<sup>th</sup> Street. The tract has approximately 938 feet of street frontage along Phoenix Avenue.

## EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5). Characteristics of this zone are as follows:

### Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

### Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

### Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

**Area and Bulk Regulations:**

Minimum Lot Size – 14,000 square feet  
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres  
Existing District (By Extension) – 14,000 square feet  
Minimum Lot Width – 100 feet  
Front Yard Setback - 25 feet  
Side Yard on Street Side of Corner Lot - 15 feet  
Side Yard Setback – 20 feet  
Rear Yard Setback - 20 feet  
Side/Rear (adjoining SF Residential District/Development) – 30 feet  
Minimum building separation – to be determined by current City building and fire code.  
Required street access – Minor Arterial or higher

Maximum Height - 45 feet (1+1)  
Maximum Lot Coverage - 75%

**SURROUNDING ZONING AND LAND USE**

The area to the north is zoned Industrial Light (I-1) and is developed as Interstate 540 right-of-way.

The area to the east is zoned Commercial Heavy Special (C-5-SPL) and is developed as Academy Sports & Outdoors.

The areas to the south are zoned Industrial Light (I-1) and are developed as Fed Ex and a heating and air conditioning contractor.

The area to the west is zoned Industrial Light (I-1) and is developed as Interstate 540 right-of-way.

**MASTER STREET PLAN CLASSIFICATION**

The Master Street Plan classifies Phoenix Avenue as Major Arterial.

**LAND USE PLAN COMPLIANCE**

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the zone change will not conflict with the goals and objectives of the Unified Development Ordinance. (companion item #12, Conditional Use)

**REQUESTED VARIANCE**

With the approval of this variance the contractor will be allowed to construct a new outdoor advertising sign (billboard) within 150 feet of residentially zoned or developed property. The property in question is located on the north side of Interstate 540.

### **APPLICANT HARDSHIP**

The applicant indicates that the strict enforcement of the code causes an undue hardship because it “prevents the applicant from increasing copy size resulting in impaired visibility and readership of the board; thus making it aesthetically less appealing for both advertiser and consumer”.

### **STAFF COMMENTS AND RECOMMENDATIONS**

It should be noted the actual address for the sign is 4896 I-540 **not** 4801 Phoenix Avenue.

The Board of Zoning Adjustment shall hear requests for variances from the literal provisions of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action shall be in keeping with the spirit and intent of the provisions of the zoning chapter.

A neighborhood meeting was held Monday, July 1, 2013 at 4801 Phoenix Avenue. The applicant and staff were the only persons present at the neighborhood meeting. There were no objections to the proposed project. A copy of the attendance record and meeting summary are enclosed.

The applicant’s stated reason for the hardship does not address the issue of separation from residentially zoned property which is the purpose of this variance request. The applicant has not addressed nor demonstrated the hardship that he believes is created by this particular code section regarding separation from residentially zoned property.

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 4801 South Phoenix Ave, Existing or Proposed

Zoning Classification C-5-SPL, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>	

FROM

TO

- \_\_\_\_\_ - \_\_\_\_\_ Front Yard Setback or Minimum Distance from Right-of-Way
- \_\_\_\_\_ - \_\_\_\_\_ Exterior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Interior Side Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Rear Yard Setback
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Height of Structure
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Distance Between Structures on the Same Lot
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Area (Square Feet)
- \_\_\_\_\_ - \_\_\_\_\_ Minimum Lot Frontage
- \_\_\_\_\_ - \_\_\_\_\_ Maximum Size of a Sign

250' - 150' Other: From minimum distance from Residentially zoned or Developed property

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed:

Craig A. Roberts  
Owner or Agent Name (please print)

\_\_\_\_\_  
Owner

972) 530-8698 office

or

972) 672-7311 mobile  
Owner or Agent Phone Number

Craig A. Roberts  
Agent

PO Box 452052  
Garland, TX 75045-0052  
Owner or Agent Mailing Address

Variance # \_\_\_\_\_

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by yourself?
_____	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by a prior owner?
<input checked="" type="checkbox"/>	_____	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
_____	<input checked="" type="checkbox"/>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
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_____	<input checked="" type="checkbox"/>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	<input checked="" type="checkbox"/>	Does the lot contain required easements other than those that might be located on its perimeter?
_____	<input checked="" type="checkbox"/>	Is any part of the lot in a flood plain or flood way?
_____	<input checked="" type="checkbox"/>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	<input checked="" type="checkbox"/>	Is the lot developed with structures in violation of current zoning requirements?
<input checked="" type="checkbox"/>	_____	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

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2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

Prevents applicant from increasing copy size, resulting in impaired visibility and readership of the board; thus making it aesthetically less appealing for both advertiser + consumer.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

N/A

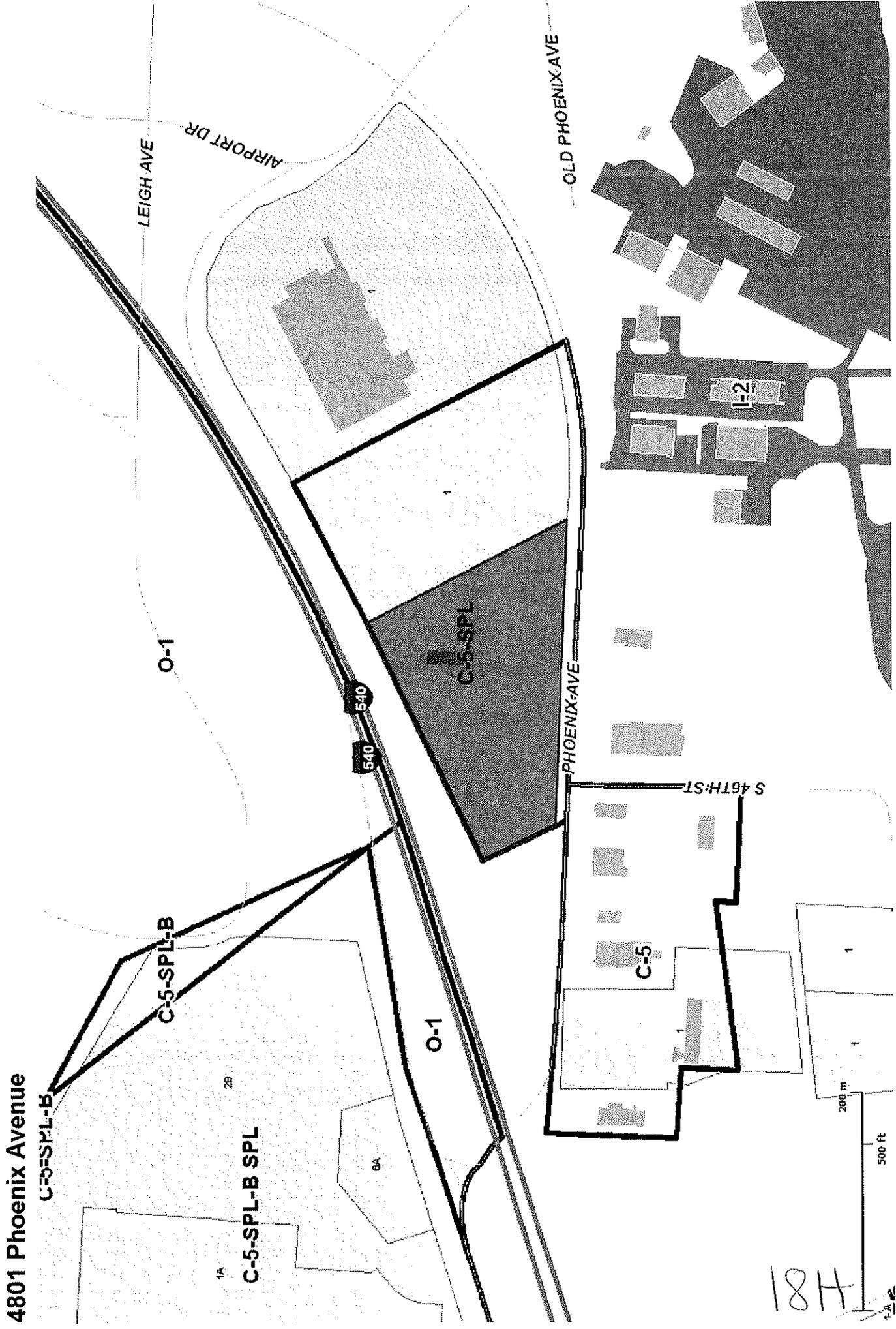
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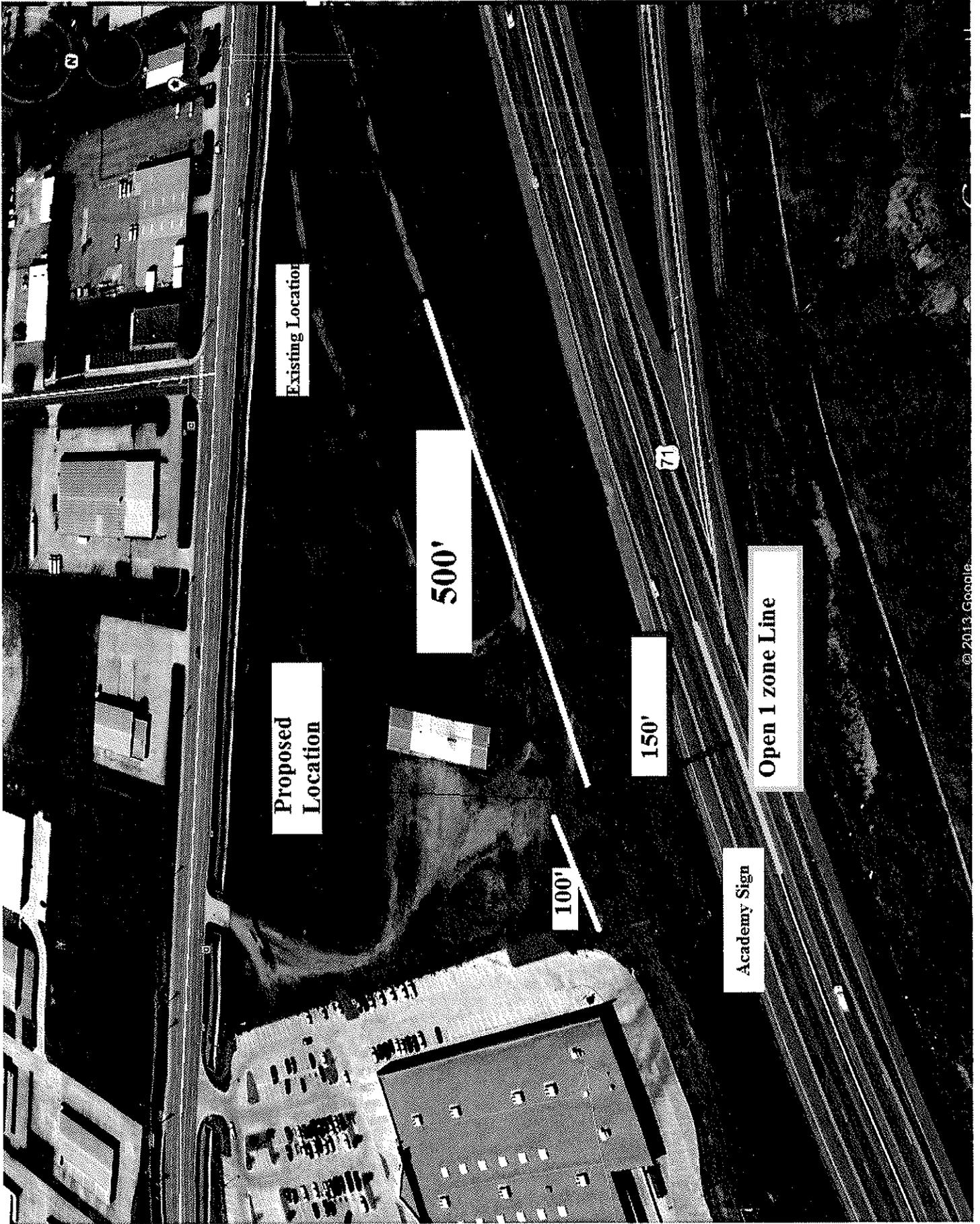
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# Variance #22-7-13: From Section 27-704-4(D) - minimum distance from residentially zoned or developed property





181

## Striplin, Bill

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**From:** Ron Green [rgreen7912@gmail.com]  
**Sent:** Tuesday, July 02, 2013 9:17 AM  
**To:** Striplin, Bill  
**Cc:** craig@ramoutdoor.net; Jamie Roberts  
**Subject:** Ram Outdoor  
**Attachments:** Attendance List for Meetings #1.jpg; Attendance List for Meeting # 2.jpg

Bill,

Attached are the two attendance sheets from yesterday. Nothing was discussed.

Please let me know if you will need anything else.

Thanks,

Ron

--

Ron Green

Ram Outdoor Advertising

[ron@ramoutdoor.net](mailto:ron@ramoutdoor.net)

479.806.7735

Meeting Location 4801 S Phoenix Ave, Fort Smith, AR 72903

Meeting Time & Date 3:00PM July 1, 2013

Meeting Purpose The discussion about relocating an existing sign to the north east corner of property

PHONE #

ADDRESS

NAME

- 1. Bill Stripha City of Fort Smith 784-2211
- 2. Ron Green 1766 Locust Dr 479806-7735

- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_